TENTATIVE AGENDA
STATE WATER CONTROL BOARD MEETING
THURSDAY, AUGUST 4, 2011

House Room D
General Assembly Building
9th and Broad Streets
Richmond, VA 23219

CONVENE - 9:30 A.M.

			TAB
I.	**Minutes (**April 14, 2011)		A
II.	**Final Exempt Regulations**		
	Fees for Permits and Certificates (Final Exempt - 9VAC25-20-50)	Porterfield	B
	VPDES Permit Program Regulation (Final Exempt - 9VAC25-31-40)	Porterfield	C
	Regulations Governing the Discharge of Sewage and Other Wastes From Boats (Final Exempt - 9VAC25-71-60)	Porterfield	D
	VPDES Permit Program Regulation & General VPDES Permit for Discharges of Storm Water Associated with Industrial Activity (Final Exempt 9VAC25-31, 9VAC25-31-450, 9VAC25-31-790 And 9VAC25-151-190 - Citation Changes)	Miller	E
	Water Quality Management Planning Regulation - Merck, Inc.	Kennedy	F
III.	**Final Regulations**		
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IV.	**Proposed Regulations**		
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V.	**Petitions**		
	Water Quality Standards - Bull Run Tier III	Whitehurst	I
VI.	**Significant Noncompliance Report**	O'Connell	J
VII.	**Consent Special Orders (VPDES Permit Program)**	O'Connell	K
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	Town of Blackstone - Blackstone WWTP (Nottoway Co.)		
	Town of Chase City - Chase City WWTP (Mecklenberg Co.)		
	City of Lynchburg - Lynchburg Regional WWTP		
	Northern Regional Office		
	Fredericksburg Waste Water Treatment Plant/City of Fredericksburg		
	King George County Service Authority		
	Piedmont Regional Office		
	Ennis Paint, Inc.		
	Tidewater Regional Office		
	Hercules Incorporated (Southampton Co.)		
	S.E.A. Solutions Corp. (Chesapeake)		

Tyson Farms, Inc. Temperanceville Complex WTP (Accomack Co.)
Valley Regional Office
Town of Elkton STP (Rockingham Co.)
Rivanna Water & Sewer Authority - Moores Creek Regional STP (Charlottesville)
Albemarle County Service Authority
City of Charlottesville collection system
Central Office
Titan Virginia Ready-Mix LLC and Mechanicsville Concrete (Fairfax Co., Loudoun Co., Frederick Co. and Norfolk)
Town of Crewe (Nottoway Co.)

VIII. Consent Special Orders (VWP Permit Program/ Wetlands/Ground Water Permit Program) — O'Connell — L

Northern Regional Office
Celebrate Virginia North Community Development Authority/ T.S.C. (Stafford Co.)
SCI Virginia Funeral Services, Inc./King David Memorial Cemetery (Fairfax Co.)
Piedmont Regional Office
Woodhaven Water Company, Inc. Woodhaven Shores Water System (New Kent Co.)

IX Consent Special Orders (AST, UST & Others) — O'Connell — M

Blue Ridge Regional Office
Petroleum Marketers, Inc. (Bedford Co.)
Northern Regional Office
Baltimore Tank Lines (Fairfax)
Northrop Grumman Systems Corp. (Fairfax)
TransMontaigne Operating Co. L.P. (Fairfax)
Piedmont Regional Office
W. Harold Talley II, LLC (Surry)
Southwest Regional Office
Judy M. McGee/Martin E. McGee (Tazewell Co.)

X. Public Forum

XI. Other Business

Division Director's Report — Davenport
Future Meetings (Confirm September 22-23, October 27-28, December 8-9)

ADJOURN

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to the staff contact listed below.

PUBLIC COMMENTS AT STATE WATER CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented during the public comment period (i.e., those who commented at the public hearing or during the public comment period) up to 3 minutes to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances, new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cindy.berndt@deq.virginia.gov.

Fees for Permits and Certificates Regulation - 9VAC25-20-10 et seq.: The department will requests the Board to adopt amendments to the Fees for Permits and Certifications Regulation. This final exempt regulatory action is being taken to implement Chapter 149 of the 2011 Acts of Assembly which exempts Navy-sponsored dredging projects from permit application fees. Currently the regulations exempt U.S. Army Corps of Engineer-sponsored dredging projects from permit application fees.

Virginia Pollutant Discharge Elimination System (VPDES) Permit Program Regulation - 9VAC25-31-940: The department will request the board to adopt amendment of the VPDES Permit Program Regulation 9VAC25-31-10 et seq. as final regulations. This final exempt regulatory action is being taken to implement Chapter 252 of the 2011 Acts of Assembly. The statutory change removes references to the State Water Control Board delegating authority to the Director to the Department of Mines, Minerals, and Energy to issue VPDES permits for coal surface mining operations. This regulatory change does not impact the current process that is used to issue VPDES permits to coal surface mining operations.

Regulations Governing the Discharge of Sewage and Other Wastes from Boats - 9VAC25-71-10 et seq.: The department will request the board to adopt amendments to the Regulations Governing the Discharge of Sewage and Other Wastes from Boats - 9VAC25-71-10 et seq. as final regulations. This final exempt regulatory action is being taken to implement Chapter 220 of the 2011 Acts of Assembly which specifies the methods that shall be used to prevent sewage discharges from boats and vessels from occurring in no discharge areas and these methods are being incorporated in the regulations.

Final Exempt Action, 9VAC25-31 and 9VAC25-151: This amendment updates citations in the Board's regulations which are necessary due to the recodification of the Solid Waste Management Regulations from 9VAC20-80 to 9VAC20-81. The amended regulations are:

- 9VAC25-31 (VPDES Permit Regulation)
    - Section 9VAC25-31-100.P.12.d
    - Section 9VAC25-31-450
    - Section 9VAC25-31-790.A.3.d(3)
- 9VAC25-151 (General VPDES Permit for Discharges of Storm Water Associated with Industrial Activity)
    - Section 9VAC25-151-190.F

Consideration of an Exempt Final Action to Amend the Water Quality Management Planning Regulation (9VAC25-720-50.C.) to Revise the Nutrient Waste Load Allocations for Merck, Inc.: Staff intends to ask the Board at their August 4, 2011 meeting for approval of an Exempt Final Action to amend the Water Quality Management Planning Regulation to revise the nutrient waste load allocations for Merck, Inc. (VPDES VA0002178). The staff proposal is based on a Judicial Consent Decree, entered April 27, 2011 in the Richmond Circuit Court, which includes an order that the Board shall increase Merck's nutrient waste load allocations as follows:

- Total Nitrogen – increase from 14,619 lbs/yr to 43,835 lbs/yr
- Total Phosphorus – increase from 1,096 lbs/yr to 4,384 lbs/yr

This Consent Decree affirms the settlement of an appeal, made in June 2009 by the Chesapeake Bay Foundation and the Virginia Waterman's Association, contesting the Board's approval in April 2009 of the same waste load allocation increases. The Board approved the settlement, based on advice of legal counsel, at their April 14, 2011 meeting. In 2005, the State Water Control Board (Board) upon recommendation of the Department of Environmental Quality (DEQ) adopted amendments to the Water Quality Management Planning (WQMP) Regulation, 9 VAC 25-720, to establish waste load allocations (WLA) for discharges of total nitrogen (TN) and total phosphorus (TP) for 125 significant discharges in the Chesapeake Bay Watershed, including Merck. In the 2005 rulemaking, Merck's WLA were based on

the assumption that their biological treatment system could achieve effluent nutrient levels comparable to the reduction responsibility assigned to the publicly owned treatment works in the Shenandoah basin, which were 4.0 mg/l TN and 0.30 mg/l TP. Merck subsequently submitted a rulemaking petition on January 8, 2007, requesting that the Board increase their WLA to reflect effluent nutrient concentrations that were technologically achievable. A "treatability study" by Merck concluded that effluent levels of 12.0 mg/l TN and 1.2 mg/l TP were achievable, and these translated to annual loads of 43,835 lbs/yr TN and 4,384 lbs/yr TP. The Board initiated and conducted a rulemaking from 2007 through 2009 to consider revising the TN and TP WLAs under the regulation for Merck. This rulemaking culminated in a Board public meeting begun on December 4, 2008, and completed on April 27, 2009, at which the Board approved Merck's request. Following this Board action, the Chesapeake Bay Foundation (CBF) and Virginia Waterman's Association (VWA) filed a Petition for Appeal with the Richmond Circuit Court in June 2009 seeking denial of the increased WLA. Following the filing of Motions for Summary Judgment and supporting briefs by the appellants and the Assistant Attorney General on behalf of the Board before the Court, the parties decided to attempt to resolve the case by negotiation. CBF/VWA and the Board, with the Board acting on the advice of DEQ and legal counsel, reached a compromise on April 14, 2011 which granted the increased WLA to Merck while also revising the associated "footnote" in the WQMP Regulation. The "footnote" further details Merck's responsibilities for implementation and possible future actions under the Chesapeake Bay Total Maximum Daily Load approved by EPA in December 2010, which included the increased WLA for Merck. A Consent Decree was entered April 27, 2011 in the Richmond Circuit Court that affirmed the settlement reached between the parties. That Decree ordered, among other administrative items, the following:

1. The Board shall forthwith amend its Water Quality Management Planning Regulation, 9 VAC 25-720-50, as shown on the attached Exhibit A.

Exhibit A detailed the changes to be made in 9 VAC 25-720-50:

Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)
B37R	Merck-Stonewall WWTP (Outfall 101)[10]	VA0002178	~~14,619~~ 43,835	~~1,096~~ 4,384

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(10) Merck-Stonewall - (a) these waste load allocations will be subject to further consideration, consistent with the Chesapeake Bay TMDL, as it may be amended and possible reduction upon "full-scale" results showing the optimal treatment capability of the 4-stage Bardenpho technology at this facility consistent with the level of effort by other dischargers in the region. The "full scale" evaluation will be completed by December 31, 2011, and the results submitted to DEQ for review and subsequent board action; (b) in any year when credits are available after all other exchanges within the Shenandoah-Potomac River Basin are completed in accordance with § 62.1-44.19:18 of the Code of Virginia, Merck shall acquire credits for total nitrogen discharged in excess of 14,619 lbs/yr and total phosphorus discharged in excess of 1,096 lbs/yr; and (c) the allocations are not transferable and compliance credits are only generated if discharged loads are less than the loads identified in clause (b).

Consideration to Designate a Portion of the Dan River as a Public Water Supply: Staff intends to recommend that the Board adopt amendments to the Water Quality Standards regulation to designate a 1.34 mile segment of the Dan River and its tributaries as a Public Water Supply (PWS). At its June 22, 2010 meeting, the State Water Control Board directed staff to publish a Notice of Public Comment soliciting comment on an amendment to designate a 1.34 mile segment of the Dan River as a public water supply (PWS). The rulemaking is in response to a petition from the City of Roxboro, NC. A raw water intake intended to serve Roxboro and the North Carolina counties of Person and Caswell is proposed for the Dan River near the town of Milton, NC approximately 13 miles downriver from Danville, VA. North

Carolina water quality standards require public water supply protections to extend 10 miles upriver from the intake. For approximately nine river miles above the intake, the Dan River flows through North Carolina. Virginia standards call for public water supply protections 5 miles upriver from the intake. Roxboro is requesting PWS protection in accordance with Virginia's water quality standards regulation for the 1.34 mile of the Dan River and sufficient length of its tributaries in Virginia to complete the ten mile run of the river as measured from the proposed intake. The intake was originally planned for 30 million gallons/day (MGD) but in 2002 the City of Danville, VA expressed concern to the NC Department of Environment and Natural Resources and Roxboro that 30 MGD was excessive. The proposed withdrawal was reduced to 10 MGD with the possibility of expanding to 22 MGD if or when the need arises. The need for the proposed intake was prompted due to the City of Roxboro's concerns of extreme drought similar to that of 2002 and the Homeland Security Act which encourages localities to develop alternative water supply sources and inter-local connections for emergency use. The need for the intake considers the possibility that the proposed Dan River intake may be the sole source supply for the two counties and their municipalities should existing wells or reservoirs be damaged or depleted. In addition, Roxboro indicates that existing water supply may be inadequate if one or more bulk water customers locate in either of the counties. A Notice of Public Comment (NOPC) was published in the Virginia Register on February 14, 2011 and the comment period ended April 15, 2011. Comment was received from the City of Danville Utilities Department, Pittsylvania County, Roanoke River Basin Association, and from Mr. Wells Barker. In general, opposing comment received from localities is directed towards the necessity of the proposed intake, potential additional restrictions for upstream wastewater treatment facility (WWTF) discharges, the proposed amount of water to be withdrawn, and the location of the water's return. Comment received from Danville's Division of Water & Wastewater Treatment stated their continued opposition to the inter-basin transfer of water from the Dan River. The proposed intake is near Milton, NC. Danville comment states that the existing wastewater treatment facility discharge that would accommodate the removed water returns it to a tributary to the Dan River approximately 30 miles downriver. They maintain that inter-basin transfer of water will result in a significant loss of a natural resource to communities in the Dan River watershed. There are also concerns of future increases in the amount of withdrawal from 10 MGD to 30 MGD as it is their understanding the raw water line is designed to accommodate up to 30 MGD although the initial withdrawal amount requested in the permit application is less than 30 MGD. Another issue of concern is the possibility of degraded water quality during periods of extreme low flow in the river segment between the point of water removal and return. Should this happen they believe the City of Danville could be targeted to treat wastewater to a higher degree. Pittsylvania County provided comment stating concerns that parallel those of Danville. They refer to their close regional partnership with Danville in the form of economic development projects and their contract with Danville for that city to provide water and waste water treatment services in the amount of 3 MGD. The Roanoke River Basin Association stated that, based upon USGS data, the lesser 10 MGD withdrawal request represents almost 9% of the entire median stream flow in the area. They stated that volume of water is significant and may result in water depletion and have other adverse environmental and socio-economic impacts on the Roanoke River basin below the intake. The potential for inter-basin transfers of water that originate in the Dan River are a real concern for residents and communities within the basin. If the North Carolina localities that are to be receiving water from the proposed intake decide to sell that water to other localities that do not discharge back to the Roanoke basin or if it is decided the expense is too great to pump treated wastewater back to the Dan, there is a net loss risk of a valuable resource. They also state their concerns of more stringent discharge limits and potential increased cost to localities to meet those limits should discharge limits be recalculated with reduced low flow conditions due to the intake. They state their opposition to any inter-basin transfer of water and do not support any decision to designate the proposed portion of the Dan River as a public water supply. Comment was received from Mr. Wells Barker of Beaufort, NC. He urges the Board to rethink the approval of Roxboro's petition for PWS reclassification of the Dan River. He believes what was presented to the State of Virginia was not a complete picture of this water project, its need, or the intended use of the water involved and he feels it important that Virginia and citizens in the Roanoke basin be aware of inconsistencies regarding the stated need and probable use of water from the proposed

intake at Milton, NC. He asserts that Roxboro and Person County initiated this water supply project approximately 10 years ago and have invested over $750,000 in the process to date. The governing bodies of Roxboro, Person County, and Yanceyville (a town within Caswell County) met with the Caswell County Commissioners in an attempt to negotiate Caswell joining the other localities in the proposed water supply project. According to Mr. Barker, Caswell County agreed to sign on to the project after changes were incorporated into the project agreement that Caswell Co. believes would allow them a portion of the revenue generated by the sale of the Dan River water, should such sales occur. Mr. Barker supplied a copy of Roxboro's 2008 Local Water Supply Plan on file with the N.C. Division of Water Management (NCDWM). He points out that by 2050 Roxboro projects to be using 52% of their supply from their two water source lakes. He continues that in 2050 Yanceyville's water plan projects that they will be using 20% of its supply and Milton's plan projects they will be using 27% of their supply. NCDWM recommends that localities with water supply systems should be investigating additional sources if they are projected to be using 80% of supply 20 years in the future. Mr. Barker is of the opinion the Milton water supply intake project is about the sale of water and not the need for it. He states that the most likely recipient of any water sales from the Dan River would be Durham County, NC which has experienced a 20% increase in population over the past 10 years. Durham Co. is in the Neuse River basin and the sale of water to Durham Co. would be an inter-basin transfer of water which will affect many municipalities, businesses, and citizens throughout the Roanoke River basin all the way to Virginia Beach. Staff recognizes the comments received address issues directly related to designating a portion of the Dan River and its tributaries in Virginia as a public water supply as well as issues not directly related to the designation. These other issues deal with how and where the water removed from the Dan River would be returned to the river within North Carolina and the impact that would have on uses of the river within the Commonwealth. The City of Danville North Side Wastewater Treatment Facility (WWTF) discharge point (with a diffuser) to the Dan is a little over one tenth of a mile upstream of the terminus of the petitioned PWS segment. Low flow conditions are utilized at the point of discharge when permit limits are calculated. A downstream water withdrawal would not affect calculation of permit limits for Danville's discharge. Based on the use of a diffuser at the WWTF, the effluent should be well mixed and so there should not be a concern for any downstream withdrawal. General water quality problems due to low flow (drought) would affect the WWTF regardless of the downstream withdrawal. There is little chance that the withdrawal itself would result in stricter limits for the discharges upstream of the intake. Other issues raised by the comments are in regard to how and where the water removed from the Dan River would be returned to the river within North Carolina. The withdrawal may be more likely to affect downstream dischargers because critical flows could be reduced for the Dan River below the intake which may be deducted from historical low flow conditions. This could reduce assimilative capacity at downstream discharge points. The closest significant discharger in VA downriver from the proposed intake is South Boston WWTF which is approximately 30 miles down river. DEQ permitting staff was consulted with regard to the potential impacts to permit limits for existing significant dischargers in the South Boston area should 10 MGD be removed from the Dan River at Milton, NC. They responded that reduction of the total residual chlorine limits may be the only consequence experienced. According to the engineering consultant for the City of Roxboro, a portion of the intake water would be returned to the Dan River via the Yanceyville, NC WWTF discharge (permit No. NC004011; design flow 0.6 MGD) to County Line Creek which joins the Dan River just downriver of the proposed Milton intake and is approximately 25 miles upriver from the Town of South Boston. Another portion of the intake water would be discharged to Marlowe Creek by the Roxboro, NC WWTF discharge (permit No. NC0021024; design flow 5.0 MGD). This water is ultimately returned to the Dan River via the Hyco River approximately 10 miles downriver of South Boston**.** DEQ staff understands the concerns of the Virginia communities expressing concern regarding the Roxboro water withdrawal but it is not germane to the public water supply designation. In the interest of maintaining the on-going interstate cooperation, a Memorandum of Agreement was signed by DEQ Director David Paylor and NC Department of Environment & Natural Resources (NCDENR) on June 6, 2011. The MOA acknowledges a mutual agreement to reduce downstream impacts to water supplies and encourage reciprocation of designations in the future when feasible. The MOA identifies the segments of the Dan River and its tributaries that are

proposed for PWS designation. The memo goes on to recognize that PWS protections according to the state of Virginia will be accorded to the designated segment though that does not guarantee the designation is protective of North Carolina water supply nor does it guarantee delivery of any particular quality of water for North Carolina water supply. In the event of a known, reportable contaminant discharge event in the segment that may result in significant impairment to waters in North Carolina, Virginia DEQ will make reasonable and expeditious effort to notify Roxboro. As an interstate source of water supply, there are inevitably inherent tensions among the states and water users from each state regarding water allocation. Withholding approval or denying the Roxboro public water supply designation will have no impact on whether the withdrawal is ultimately allowed. The issue of equitability between the two states on water withdrawals has been the subject of ongoing dialogue among the legislative and citizen representatives of the Roanoke River Bi- State Commission for the last year and will continue. A joint water quantity model has been developed to inform the discussion. Should the basis for an interstate agreement be reached in this forum, review by DEQ, the Board, and the Administration would follow.

Request to Proceed to Notice of Public Comment and Hearing on Proposed Amendments to the Water Reclamation and Reuse Regulation (9VAC25-740 et seq.): The staff intends to bring to the Board at the August 4, 2011 meeting, a request to proceed to notice of public comment and hearing on proposed Amendments to the Water Reclamation and Reuse Regulation (9VAC25-740 et seq.). These amendments are being proposed to address issues that would improve the Board's ability to effectively promote and encourage the reclamation and reuse of wastewater in a manner that is protective of the environment and public health. In addition, amendments that would allow (i) design or operational deviations for facilities still capable of producing or distributing reclaimed water in a manner protective of the environment and public health, and (ii) temporary authorization of water reclamation and reuse without a permit during periods of significant drought are needed to improve the implementation of the regulation and to further promote and encourage water reclamation and reuse. The legal basis for the Water Reclamation and Reuse Regulation (9VAC25-740 et seq.) is the State Water Control Law (Law) (Chapter 3.1 of Title 62.1 of the Code of Virginia). Section 62.1-44.15 authorizes the State Water Control Board (Board) to promulgate regulations necessary to carry out its powers and duties. Specific to water reclamation and reuse, § 62.1-44.2 established the purpose of the Law, which is, among other things, to promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health. More specifically §§ 62.1-44.15(10) and 62.1-44.15(15) give authority to the Board to adopt regulations as it deems necessary to enforce the general water quality management program, and to promote and establish requirements for the reclamation and reuse of wastewater that are protective of state waters and public health as an alternative to directly discharging pollutants into state waters. The Water Reclamation and Reuse Regulation (9VAC25-740 et seq.) became effective on October 1, 2008. Since its implementation, both the Department of Environmental Quality (DEQ) and the public have identified needed changes to the regulation that would improve the DEQ's ability to implement a more effective water reclamation and reuse regulatory program. A Notice of Intended Regulatory Action (NOIRA) was published in the Virginia Register of Regulations on January 3, 2011. As part of the public participation process, DEQ formed a Regulatory Advisory Panel (RAP) of stakeholders to assist in the development and consideration of the proposed amendments to the Water Reclamation and Reuse Regulation. A RAP consisting of representatives from the Upper Occoquan Service Authority; the VA AWWA/VWEA – Water Reuse Committee; New Kent County; Virginia Tech; the Williamsburg Environmental Group, Inc.; the Rappahannock River Basin Commission; the Virginia Department of Health; the Golf Course Superintendents Association; Malcolm Pirnie; the Alexandria Sanitation Authority and VAMWA; the Hampton Roads Sanitation District; Fairfax Water; the Virginia Manufacturers Association; the Virginia Association of Municipal Wastewater Agencies, Inc.; the Virginia Farm Bureau; the Hampton Roads Planning District Commission and Mission H_2O met a total of four times (April 21, 2011; May 2, 2011; June 2, 2011; and July 7, 2011). The 17 members of the RAP with the assistance of technical support staff from DEQ, DCR and VDH discussed and considered several

minor amendments and the following significant amendments to the Water Reclamation and Reuse Regulation:

- Include indirect non-potable reuse as an unlisted reuse;
- Prohibition on reclaimed water reuse inside domestic dwellings;
- Ultraviolet disinfection requirements for Leve1 and Level 2 reclaimed water;
- Monitoring and points of compliance for specific system storage facilities and reclaimed water distribution systems;
- Auxiliary or backup plan to manage wastewater;
- Design requirements for reclaimed water distribution systems to ensure proper maintenance
- Reclaimed water distribution system maintenance to prevent unauthorized discharges and to recover flush water or reclaimed water for use or reuse;
- Reliability Class I for pump stations that are part of Level 1 reclamation systems and satellite reclamation systems;
- Reclaimed water agent (provider) inspection of end users' reuses and storage facilities;
- Identification, labeling and signage requirements for new reclaimed water distribution systems and for systems converted to reclaimed water distribution systems;
- No discharge requirement for all reclaimed water storage; and
- Emergency authorization for the production, distribution or reuse of reclaimed water;
- Management of pollutants from significant industrial users;
- Permit application, design, construction and operation requirements for indirect potable reuse; and
- Notification of an application for water reclamation for water reclamation and reuse to owners of downstream water withdrawals

Proposed amendments to the regulation will, in most cases, impact publicly owned treatment works, reclamation systems, satellite reclamation systems and reclaimed water distribution systems. Similar privately owned systems, although less common, may be impacted by the amendments to the regulation it considered a small business. End users of reclaimed water, which are more likely to include small businesses, would either be positively affected or minimally affected by amendments to the regulation.

The following proposed amendments to the regulation will accomplish the objects of the applicable law while minimizing the adverse impact on treatment works, reclamation systems, satellite reclamation systems, reclaimed water distribution systems and end users that are considered small businesses:

1. An amendment is proposed to add provisions that would allow design or operational deviations for facilities still capable of producing or distributing reclaimed water in a manner protective of the environment and public health. For applicants/permittees, including small businesses, that previously requested exceptions to design or operational requirements of the regulation, DEQ was unable to grant such exceptions or variances without the authority established in law or regulation. This amendment will give the agency the authority and flexibility to approve projects that may not conform to all design requirements of the regulation but are still protective of the environment and public health.
2. An amendment is proposed to add provisions for an emergency authorization to reclaim and reuse wastewater without a permit during periods of significant drought. DEQ had in the past received requests to temporarily authorize emergency reuse of reclaimed water during severe droughts without permit coverage, but was unable to grant such authorization without the authority to do so established in regulation. The amendment will provide DEQ the authority and flexibility to temporarily authorize reclamation and specific reuses of reclaimed wastewater without a permit during periods of significant drought.
3. An amendment is proposed to simplify procedures for Level 1 reclamation systems to manage pollutants of concern from treatments works that provide source water to the reclamation system, have significant industrial users (SIUs), and are not required to have pretreatment programs. These treatment works will include privately owned facilities that may be considered small businesses.

4. An amendment is proposed to revise an existing design requirement that would allow non-system storage facilities of reclaimed water to discharge only in the event of a 10-year, 24-hour storm. Currently, all reclaimed water storage cannot discharge except in the event of a 25-year, 24-hour storm, requiring much more storage capacity. This amendment will have the greatest positive economic effect on end users of reclaimed water that must store the reclaimed water between periods of reuse, such as for irrigation (e.g., at golf courses), utilizing existing ponds that predate the design requirements of the current regulation.
5. An amendment is proposed that would exclude existing irrigation distribution systems converted to reclaimed water distribution systems from requirements to provide conversion plans, O&M manuals, and identification and notification for in-ground piping where the irrigation distribution systems are not under common ownership or management with reclamation systems, satellite reclamation systems or reclaimed water distribution systems providing reclaimed water to the irrigation distribution systems. This amendment will have the greatest positive economic effect on end users of reclaimed water with existing in-ground irrigation systems that predate design requirements of the current regulation.

Outstanding Issues:

As stated in the NOIRA for this regulatory action, the Board studied the possible reuse of reclaimed water for groundwater recharge and presented its findings in a report to the RAP with points for discussion by the panel. Based on discussions of the RAP and comments received from individual RAP members, there appears to be general support by the RAP for groundwater recharge with reclaimed water for subsequent reuse. While DEQ appreciates the input of the RAP and recognizes the benefits of groundwater recharge with reclaimed water for reuse, the agency has determined that amendments to the Water Regulation and Reuse Regulation to address groundwater recharge should follow the establishment of a new or revised Board policy on groundwater recharge, and should be part of or follow a regulatory action to amend the Groundwater Regulations (9VAC25-280). Input received from the RAP will provide useful information to support these efforts in the future.

Impact:

Water reclamation and reuse is voluntary and each locality will have varying requirements and/or needs to implement water reuse. Thus, predicting the costs to localities will also vary widely. The majority of proposed amendments to the regulation will minimally change the cost to apply for a permit, and to construct, operate and maintain a water reclamation and reuse project for most localities.

A proposed amendment requiring information to perform a cumulative impact analysis for a VPDES permitted wastewater treatment works or a sewage collection system proposing a new or increased diversion of source water to reclamation and reuse, may ultimately limit the amount of source water diverted by such facilities or systems under very limited conditions affecting minimum instream flow and downstream beneficial uses of the surface water to which treated source water would be discharged when not diverted to reclamation and reuse. Where the locality generates revenues from the sale of reclaimed water, reductions in the amount of source water that can be diverted to reclamation and reuse may have the potential to reduce revenues. However, such circumstances are anticipated to be rare, limited to severe droughts, and can be offset by collection and storage of source water or reclaimed water during non-drought conditions in anticipation of drought conditions.

Another amendment that proposes to allow design or operational deviations or variances for facilities still capable of producing or distributing reclaimed water in a manner protective of the environment and public health may provide significant cost savings to localities. The savings realized by such variances will vary from project to project.

Proposed amendments to this regulation will, in most cases, affect water reclamation systems, satellite reclamation systems and reclaimed water distribution systems that are both publicly and privately owned. While most end users of reclaimed water, including individuals and businesses, will not be affected by these amendments, end users most likely to see reduced economic impacts will be those owning non-system storage of reclaimed water, and irrigation distribution systems not under common ownership or management with reclamation systems, satellite reclamation systems or reclaimed water distribution systems providing reclaimed water to the irrigation distribution systems.

There are presently 23 facilities authorized by individual VPA permits and 1033 facilities authorized by individual VPDES permits that are capable of providing source water for and/or implementing water reclamation and reuse. Among the VPA permitted facilities, 13 are privately owned and may be considered small businesses. Among the VPDES permitted facilities, 299 are privately owned and may be considered small businesses. Seven water reclamation and reuse projects currently authorized by either a VPDES or VPA permit within the state provide reclaimed water to a variety of end users that range from small to large businesses for cooling, irrigation, fire suppression, toilet flushing, and car washing. While the need and demand for reclaimed water in Virginia is anticipated to grow, there is insufficient data and no clear trends to extrapolate the number and frequency of water reclamation and reuse projects that will be proposed, and the number and type of end users that will served by these projects.

Most proposed amendments to the regulation will result in no or minimal changes in cost for affected individuals, businesses and other entities. Amendments that may result in either an increase or decrease in cost to the same parties include the following:

1. May reduce the cost of a project where the proposed variance procedures allow certain design, construction, operation or maintenance requirements contained in the regulation to be waived where approved by the board.
2. Will increase costs for owners of alternative onsite sewage systems that are jointly permitted by DEQ and VDH to both reclaim and dispose of sewage onsite. Increased costs will result from the fee of a second permit and costs for additional monitoring, reporting and record keeping required for reclamation and reuse.
3. May require monitoring, reporting and record keeping for certain system storage facilities and reclaimed water distribution systems where there is potential for reclaimed water in these facilities and systems to degrade below reclaimed water standards. The type and extent of this monitoring will be determined on a case-by-case basis, which may increase costs for reclamation systems and reclaimed water distribution systems.
4. Will reduce the minimum capacity at which non-system storage of reclaimed water may be allowed to discharge (for storms greater than the 10-year, 24-hour storm), which then reduces construction and maintenance costs for these facilities.
5. May increase costs for reclaimed water distribution systems depending on how the flush water from maintenance activities for these systems will be managed.

Consideration of Petition to Designate a Portion of Bull Run as Exceptional State Waters: Staff intends to ask the Board at their August 4, 2011 meeting for a decision on whether or not to initiate a rulemaking to amend the Water Quality Standards regulation to designate a segment of Bull Run as Exceptional State Waters (ESW). Staff has conducted a site visit and concluded that Bull Run meets the required eligibility criteria necessary for consideration of an Exceptional State Waters designation. However, the criteria for exceptional recreational opportunities in this case are not directly related to the water body such as canoeing/kayaking, or rafting, but rather the outdoor recreational opportunities of the National Park that are enhanced by the presence of the river, such as history study, day hikes, birding, and nature photography. Please refer to Attachment 1 for the full site visit report. Three comments were received and all opposed the designation, primarily due to impacts the designation would potentially have on stormwater permits related to highway construction in the watershed. Please refer to Attachment 2 for a summary of comment. At the April 14, 2011 meeting of the State Water Control Board, staff presented to the Board a petition from the National Park Service to designate Bull Run from the confluence of Little Bull Run downstream to the crossing of Interstate 66 as Exceptional State Waters. Bull Run is a relatively small Piedmont river in northern Virginia located approximately 20 miles southwest of Washington, DC and is in the Occoquan watershed portion of the Potomac River basin. The petitioned segment forms the northern boundary of the Manassas National Battlefield Park. At the April meeting, the Board directed staff to:

1. Proceed with notification to Prince William County, Fairfax County, and riparian landowners who would be potentially impacted by an Exceptional State Water

designation of a portion of Bull Run and to provide these potentially impacted parties a 60-day opportunity for comment.

2. Publish in the Virginia Register the required notice of a 21-day comment period for the general public, and
3. Appear before the Board after the close of the comment periods to provide a summary of the comments and the results of the staff site visit so that the Board can decide at that time what course of action to take on the petition.

"Tier III" is how the public commonly refers to those waters that are protected from water quality degradation through a prohibition on new or increased point source discharges. The equivalent regulatory terms are "Outstanding National Resource Waters" for EPA and "Exceptional State Waters" for Virginia.

Staff Site Visit:

DEQ guidance for the exceptional state waters program requires a staff site visit to the nominated water body for confirmation that the candidate water meets the exceptional state waters eligibility criteria. The nominated water body must meet certain eligibility criteria to be designated and protected by an Exceptional State Water, or Tier III, designation. The nominated water body must exhibit an exceptional environmental setting **and** either support an exceptional aquatic community **or** support exceptional recreational opportunities which do not require modification of the existing natural setting.

The two staff members that conducted the site visit concurred that Bull Run may meet the criteria necessary to be considered for an Exceptional State Waters designation for the reasons outlined below.

This segment of Bull Run represents an important component of Manassas National Battlefield Park which, as stated in agency guidance for Exceptional State Waters, is one of four factors that must apply to meet the primary eligibility criterion of an exceptional environmental setting. As Bull Run passes by and through the park, it exhibits an exceptional environmental setting along with traits characteristic of a rural setting as opposed to traits that would be exhibited by waters flowing through an otherwise urban/suburban sprawl-type area.

Most all other existing Tier 3 waters have exceptional recreational components that are directly related to the water body such as canoeing/kayaking, rafting, and/or possess an outstanding native trout or other recreational sport fishery. Bull Run does not easily lend itself to these types of activities but it is an important component of a national park that provides for exceptional outdoor recreational opportunities in the form of history study, day hikes, birding, and nature photography. Staff concludes that Bull Run meets the recreational component for Tier 3 water designation although most other Tier 3 waters with exceptional recreational opportunities include recreation in or on the water itself.

The majority of this segment of Bull Run has not been assessed for aquatic life use. The aquatic life use for this assessed portion is considered fully supporting though it is not of an exceptional nature.

In summary, staff concludes that Bull Run meets the eligibility criteria necessary for designation consideration due to the environmental setting factors outlined above and the outdoor recreational opportunities that are enhanced by the presence of the river. The park and the river provide an opportunity to the citizens of the highly urbanized northern Virginia region to enjoy an outdoor experience in a natural setting.

The petitioned segment of Bull Run has not been assessed as impaired but is within the watershed boundary of a bacteria and an aquatic life TMDL. Portions of Bull Run upstream and downstream of the petitioned segment are listed as impaired for recreational uses due to exceedances of the bacteria criterion and the aquatic life use downstream is listed as impaired due to sedimentation.

Summary of Comments:

The Code of Virginia, section 62.1-44.15:4(B), requires the Board to provide written notification of Exceptional State Waters petitions to each locality in which the waterway lies and to make a good faith effort to provide notice to impacted riparian property owners. The riparian property owner notices are sent to names and addresses taken from local tax rolls provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdictions at the request of the Board. A letter of notification and request for comment was sent to the potentially impacted localities and riparian landowners.

Written comment was received from Fairfax County, Prince William County, and VA Department of Transportation. All commenters expressed concern regarding potential negative impacts

to future transportation improvements. Though still in the early stages of planning, a Route 234 Bypass, Manassas Battlefield Bypass, Route 29 Alternate, and possible addition of extra lanes to I-66 were mentioned as potential projects that could be affected by the Tier 3 designation. Any of these projects may result in new or expanded MS4 stormwater discharges which would be prohibited to waters designated as Exceptional State Waters. Prince William Co. also expressed concern about the potential for private septic systems that may fail in the future and the inability of a homeowner to replace the failed system with a single-family home treatment system that would result in a discharge to ESW designated waters.

REPORT ON FACILITIES IN SIGNIFICANT NONCOMPLIANCE: One permittee was reported to EPA on the Quarterly Noncompliance Report (QNCR) as being in significant noncompliance (SNC) for the quarter ending December 31, 2010. The permittee, its facility and the reported instances of noncompliance are as follows:

1. Permittee/Facility: **New Kent County, Parham Landing Wastewater Treatment Plant**

Type of Noncompliance:	**Failure to Meet Effluent Limit (Total Kjeldahl Nitrogen)**
City/County	New Kent, Virginia
Receiving Water:	Pamunkey River
Impaired Water:	The Pamunkey River is impaired because of the presence of excessive amounts of E. coli and enterococci. Additionally it is assessed as impaired because of the presence of mercury and PCBs in fish issue and because of the lack of biologic integrity revealed by an estuarine bioassessment of its aquatic life. It is also considered impaired due to nutrient enrichment. The sources of excessive E. coli and enterococci are unknown. The presence of mercury is attributed to atmospheric deposition from unknown sources. The source of the PCB contamination is unknown. The reason for the lack of biologic integrity is attributed to contaminated sediments. The source of the nutrient enrichment is unknown.
River Basin:	York River Basin
Dates of Noncompliance:	November and December, 2010
Requirements Contained In:	VPDES Permit
DEQ Region:	Piedmont Regional Office

Staff from the Piedmont Regional Office have evaluated this case and believe that enforcement action is not needed. An upgrade to the wastewater treatment plant, designed to ensure compliance with total kjeldahl nitrogen limits was completed at the end of 2010. The most recent discharge monitoring reports received for the facility show compliance with all effluent limits.

Town of Blackstone - Blackstone WWTP, Order by Consent – Issuance with Civil Charges: The Town of Blackstone owns and operates the 2.0 MGD design flow wastewater treatment plant ("Facility"), whose service area includes both the Town and Fort Pickett. The Facility is located within the limits of Fort Pickett, a Virginia National Guard Maneuver Training Center. The Town also owns and maintains the sanitary sewer collection system, which consists of gravity lines and 3 sewage pumping stations. The Department issued Warning Letters to the Town in January, February, and March, 2010, for Sanitary Sewer Overflow (SSO) events that reached state waters. The Town also incurred a Warning Letter in April, 2010 for late submission of the March, 2010 DMR. The Town was referred to enforcement with the issuance of a NOV in May, 2010 for additional unpermitted discharge events. The Assistant Town Manager responded to the NOV on May 19, 2010, and an enforcement meeting was scheduled for June 4, 2010, to discuss the continued noncompliance and corrective action to be conducted. The meeting was held at the Blue Ridge Regional Office in Lynchburg, with Town representatives attributing the discharge events to failing infrastructure and triggered by heavy rainfall events. The Town Manager explained that

he had been attempting to fund a $2 million dollar line item in the budget to fund infrastructure repairs for the past 3 years and had been unsuccessful. The Town has retained the engineering services of B&B Consultants, Inc. of South Hill, Virginia to design the required rehabilitation project for the sanitary sewer collection system in order to eliminate the chronic SSO events. Once construction has been completed, overall system reliability should be improved and will allow a greater amount of flow to reach the Facility. Civil charge: $66,500, of which $49,875.00 will be satisfied through the performance of a Supplemental Environmental Project (SEP) that consists of the design and implementation of a Capacity, Management, Operation and Maintenance (CMOM) Program that identifies ongoing specific activities that the Town will undertake to responsibly and effectively manage, operate, and maintain the Town of Blackstone sanitary sewer system.

Town of Chase City - Chase City WWTP - Order by Consent – Issuance with Civil Charges: The Town's VPDES Permit was re-issued on June 18, 2008 with a four-year Schedule of Compliance for copper. The Permit contained interim copper limits of 17.6 µg/l (monthly and weekly average) in effect until the completion of the Schedule, and final limits of 12.9 µg/l to be effective after completion of the Schedule. The Schedule contained a requirement that the Town submit a proposed plan for achievement of compliance or select a design engineer by October 10, 2008. The Department received notification via email on December 5, 2008 from Mr. Rickey Reese, Town Manager, that he had selected B & B Consultants of South Hill, Virginia as the design engineer. Town officials stated that they had applied for funding to run a 10-mile water line from the Roanoke River Service Authority's system in Bracey, Virginia to tie in the water service into the Town. The potable water supplied by the Authority is treated with a corrosion inhibitor which may lower the copper concentrations in the wastewater received at the WWTP. The Town has violated copper permit effluent limits in August and November 2009 and February and July, 2010. As noted above the Town believes that switching its potable water supply and performing a Water Effects Ratio study, both of which are required by the proposed order, will address its copper compliance problems. In addition to copper violations, the Town did not submit a groundwater monitoring report due in July 2009 until October 2009. The Town also misreported E. coli sample data results for the months of November and December 2009 and February, March, April and May of 2010. This issue was resolved through changes in laboratory analyzing and reporting procedures. Finally the Town experienced TKN and/or ammonia violations in January, February, March, November and December 2010 as well as January and February 2011. The Town attributed the 2011 violations to cold-weather related operational issues and the 2010 violations to maintenance issues with respect to the blower supplying air to the aeration basin at the WWTP. The Town has addressed the maintenance issues and the problem appears to be resolved. DEQ issued a number of warning letters and notices of violation with respect to the above referenced permit limit and special condition violations. The Town's consultant has completed the first half of the copper WER study utilizing the current potable water supply, and will complete the study once the Town switches over to the new potable water supply in order for a comparison to be presented. Mecklenburg County is constructing a potable water line to eliminate the Towns dependence on well water. The Town proposed the water line extension as the corrective action for the copper noncompliance, and anticipates the water line to be completed by July 31, 2011. The Order requires payment of a civil charge; establishes a deadline of September 30, 2011 for completion of all necessary potable water supply line connections, and requires the Town to submit Phase II of the WER Study by March 31, 2012 and achieve compliance with the final copper limits by July 1, 2012. Civil charge: $3,710.

City of Lynchburg - Lynchburg Regional WWTP - Order by Consent – Issuance with Civil Charges: The City of Lynchburg entered into a Special Order by Consent with the Department on July 1, 1994 to address chronic combined sewer overflows (CSOs) associated with the City's combined sanitary sewer collection system. The Order prioritized separation and rehabilitation construction projects in coordination with the Department's Construction Assistance Program (CAP), a major source of project funding for the City. To-date, the City has eliminated 102 of the 132 CSO outfalls within the system. Part of the sewer rehabilitation project involves replacing the James River Interceptor (JRI), the major collection line located in the lower basin area that transports sewage to the Lynchburg Regional

Wastewater Treatment Plant. The City's contractor, Thalle Construction Co., Inc. of Hillsborough, North Carolina is responsible for the completion of Division 2 of the JRI project.
Department records indicate that DEQ staff was notified of a fish kill in area of the Rock-Tenn plant on the James River at 6:08 p.m. on Friday, September 24, 2010. The Department regional biologist conducted a site visit on the evening of September 24, 2010 and observed dead fish at the Rock-Tenn dam on the James River and a prevalent sewage odor. The City of Lynchburg submitted an overflow report which stated that a discharge of raw sewage occurred on September 24, 2010 at the City's Combined Sewer Outfall #057 (Jefferson Street). The discharge was the result of the fouling of the bypass pumps being used during a pump-around of a section of the JRI by Thalle Construction. Due to the pump fouling, a significant volume of sewage backed up in the JRI, overflowing at CSO #057 and reaching the James River. The City indicated that on September 25, 2010 it advised Thalle personnel that, with a CSO system, debris could be expected in the JRI following a heavy rainfall event. The City reported additional discharges from CSO #057 on September 27 and 28, 2010. The September 27 event was reportedly caused by additional fouling of the bypass pumps in operation on the JRI project. The September 28 event was caused by Thalle Construction changing out the pumps fouled from September 24 – 27, 2010. The City did not provide an estimate of the volume of the additional discharges, and the Department received no reports of environmental or human health impacts resulting from the same. The Department performed a compliance history review of the City's unpermitted discharges for the six-month period prior to the September 24, 2010 incident, as well as the interrelated events of September 27 and 28, October 22 and 27, 2010. Each event was ranked according to the following criteria:

1) Dry weather vs. wet weather events – the Department considers the wet weather-related events to fall under the coverage of the 1994 Consent Order. Most of the dry weather-related events were reportedly caused by sewer line blockages and not considered to be covered by the 1994 Order.

2) Events which occurred within the combined sewer collection system where separation has been performed between the sanitary and stormwater lines or where separation is underway or planned for the future. Such events are considered to be covered by the 1994 Order as well.

3) Estimated volume of the reported discharge (over 100,000 gallons = serious, below 100,000 to 10,000 gallons = moderate, and less than 10,000 gallons = marginal).

After applying the above criteria, the following events are addressed as follows:

A.) The dry weather unpermitted discharge which occurred at 3548 Ridgecroft Drive on March 27, 2010 was estimated by the City to be 39,000 gallons of raw sewage reaching state waters. The City of Lynchburg failed to notify the Department of the March 27th event within 24 hours of occurrence as required by the subject Permit. The discharge is classified as having a *moderate* potential for harm - the violation presents *some risk* of impacting the environment, but those impacts would be moderate and correctable in a reasonable period of time. Failure by the City to notify the Department within 24 hours of the March 27, 2010 event is classified as *marginal* - the actions have or may have *little or no adverse effect* on statutory or regulatory purposes or procedures for implementing the regulatory program. The City submitted a written notification to the Department within five days of the event as required by the subject Permit.

B.) The dry weather unpermitted discharge which occurred at 2437 Hawthorne Drive on June 27, 2010 was estimated by the City to be 135,000 gallons of raw sewage reaching state waters. The volume of the discharge alone is sufficient cause to classify the violation as having a *serious* potential for harm - the discharge of raw sewage presents an *imminent and substantial risk* of impacting human health and/or the environment.

The proposed enforcement action is a civil charge only Order. Civil charge: $37,857.40 with a portion of the civil charge being offset by a Supplemental Environmental Project (SEP) which involves the restocking of fish in the James River.

Fredericksburg Waste Water Treatment Plant / City of Fredericksburg - Consent Order with civil charge- Issuance: The City of Fredericksburg (Fredericksburg) owns and operates the Fredericksburg Waste Water Treatment Plant (Facility) in Fredericksburg, Virginia. The Permit No. VA0025127 authorizes Fredericksburg to discharge treated sewage and other domestic wastes from the Plant, to the

Rappahannock River, in strict compliance with the terms and conditions of the Permit. In submitting its Discharge Monitoring Reports (DMRs) for the May, June and July 2010 Monitoring Periods, Fredericksburg indicated that it exceeded discharge limitations for Total Kjeldahl Nitrogen (TKN). On July 16, 2010, September 8, 2010, and September 9, 2010, DEQ issued Notices of Violation for the reported permit limit exceedances. On October 6, 2010, Fredericksburg representatives met with DEQ to discuss the NOVs. At the meeting Fredericksburg explained that due to vendor issues it took two months to replace a drive shaft which most likely resulted in the violations. The shaft is a part that rarely wears out and was not included on the Facility's critical list of spares in the Operations and Maintenance (O&M) manual. In addition it took Fredericksburg sixteen weeks to get the proper bearings for the drive shaft. Fredericksburg claimed this excessive amount of time to acquire the replacement parts was a direct cause of the loss of nitrification. During the meeting, DEQ staff asked the representatives of Fredericksburg if the presence of fats, oils and grease (FOG) in the Facility influent, observed during a DEQ inspection conducted on May 5, 2010, could have been a contributing cause of the TKN violations. The City responded by stating that it thought the presence of FOG was not an additional cause of the TKN violations, yet the City has decided to stop accepting FOG at the Facility as of August 2, 2010, all of which is now being hauled to the Spotsylvania County - Massaponax Wastewater Treatment Facility. Fredericksburg reported that the actions taken by the Facility staff have fixed the sources of the permit limit violations. Issue a Consent Order with a Civil Charge. Appendix A of the Consent Order requires the City to submit to DEQ for review and approval, a revised Fats, Oils and Grease (FOG) Plan which reflects the existing operations at the Facility and within the City of Fredericksburg. The costs associated with returning to compliance were approximately $9,000. Civil charge: $7,153.

King George County Service Authority - Consent Special Order w/ Civil Charges: King George County Service Authority (KGCSA) owns and operates both the Oakland Park WWTP and the Purkins Corner WWTP.

Purkins Corner: KGCSA was originally referred to enforcement in May 2007 for violations at the Purkins Corner WWTP (facility) of permitted limits for metals, including zinc. In early 2007, KGCSA requested a permit modification that also allowed for the re-evaluation of permitted metals limits. Because KGCSA's sampling of treated water showed higher hardness values than those presumed for modeling purposes in the absence of site specific data, zinc limits were relaxed, and limits for silver and lead were removed from the permit. In January 2008, KGCSA began experiencing consistent violations of conventional effluent limits including total suspended solids (TSS), carbonaceous biochemical oxygen demand-5 day ($CBOD_5$), Total Kjeldahl Nitrogen (TKN), and Total Phosphorus, as well as sporadic violations of pH, and E. Coli. Beyond permit limit exceedances, DEQ inspections at the facility also noted areas of concern. Deficiencies of the UV system were noted during inspections conducted in April, May, July, September, and December 2008. These deficiencies included a failing output sensor as well as the intensity meter showing little or no intensity. Deficiencies of this nature can result in inadequate elimination of coliform bacteria. In addition, KGCSA failed to submit a revised O&M manual following changes made at the facility as required by the Permit. In the fall of 2008, KGCSA contracted Retaw Engineering, LLC (Retaw) to conduct a pilot study aimed at optimizing the facility's performance. As a result of this study, KGCSA converted plant operations from an Extended Aeration Activated Sludge design to an enhanced Biological Nitrogen Removal design in order to enhance nutrient removal.

Oakland Park: KGCSA was referred to enforcement in February 2008 for violations at the Oakland Park WWTP of permitted limits of TSS, TKN, dissolved oxygen (DO), and Copper. Like Purkins, KGCSA had Retaw conduct a pilot study at Oakland Park which resulted in its conversion from an Extended Aeration Activated Sludge design to an enhanced Biological Nitrogen Removal Design. In November 2009, KGCSA submitted to DEQ a Basis of Design Report containing proposed upgrades at the Purkins and Oakland plants that KGCSA asserts will allow the plants to achieve compliance with permitted limits. After its referral, DEQ attempted to negotiate a Consent Order with KGCSA in order to resolve the violations at both WWTPs as well as memorialize the corrective action needed to return to compliance. In December 2009, DEQ notified KGCSA of its intent to pursue a formal hearing pursuant to Va. Code §§ 62.1-44.15 and 2.2-4020. Prior to the formal hearing, KGCSA and DEQ agreed to the terms that are

currently being presented in the proposed Consent Order. At both facilities, KGCSA will be required to achieve compliance with permit effluent limits within 60 days of DEQ issuance of a Certificate to Operate for any modification or upgrade or no later than January 15, 2012. The Order also provides KGCSA with interim effluent limits that must be met during the period of modification or upgrade or until January 15, 2012, whichever comes first. Civil charge: $50,000 with 75% offset by implementation of a Supplemental Environmental Project (SEP) that consists of KGCSA disconnecting the King George County Parks and Recreation Citizen Center from existing septic and connect it to the public sanitary sewer system.

Ennis Paint Inc., Henrico Co. - Consent Special Order - Issuance: Ennis Paint, Inc. owns and operates a paint manufacturing plant in Henrico County. Stormwater runoff from the facility is subject to the VPDES Permit No. VAR05. Ennis registered for coverage under the Permit, as evidenced by Registration Number VAR051550 but that coverage expired when Ennis failed to submit a permit registration statement. DEQ has not received a complete registration statement to date. On March 12, 2010, a representative of Ennis notified DEQ of a release of water contaminated with paint product to an unnamed tributary of the Chickahominy River. The unpermitted discharge was due to a broken pipe inside the Facility. Paint product released from the broken pipe seeped through a crack in the outside wall of the Facility and flowed to the facility's stormwater basin, which ultimately discharged to state waters. DEQ Piedmont Regional Office ("PRO") staff conducted a compliance inspection of the Facility on March 12, 2010. The inspector observed the unpermitted discharge of water contaminated with paint product to an unnamed tributary of the Chickahominy River. During the inspection a representative of Ennis informed DEQ staff, that the wastewater from the facility's tank farm containment area had been removed by pumping it to the stormwater basin. The stormwater basin discharges to an unnamed tributary of Chickahominy River. The discharge of wastewater from the tank farm containment area was not authorized by the VPDES Permit. The Department issued a Notice of Violation (NOV) to Ennis on March 25, 2010 for unpermitted discharge of contaminated stormwater. The consent order requires Ennis to install a shutoff valve on the discharge pipe from the stormwater basin, submit notification upon completion of the installation, submit photographs of work completed to prevent future releases, submit a complete permit registration statement, and submit records and invoices that document the disposal of the wastewater from the tank farm containment area for one year. The injunctive relief that Ennis will incur as a result of the violations was estimated to be approximately $500.00. Civil charge: $7,110.

Hercules Incorporated, Southampton Co. - Consent Special Order with a civil charge: Hercules Incorporated ("Hercules") operates an industrial chemical manufacturing facility ("Facility") in Southampton County, Virginia, and owns therein the assets for the production of industrial chemicals that are sold for use in the manufacturing of paper. Hercules also operates and maintains both the assets owned by Eastman Chemical Company ("Eastman") for the production of fatty acids and an Eastman-owned internal wastewater treatment plant that treats wastewater from the Eastman production area. The Facility is owned by Ashland Inc., of which Hercules is a wholly owned subsidiary. The Facility is subject to the Permit; Hercules is responsible for all aspects of the Permit. Among other things, the Permit authorizes the Facility to discharge process water and non-contact cooling water from Outfall 002 within numerical limits prescribed in the Permit for pH, temperature, total phosphorus, total recoverable copper, hexavalent chromium, dissolved oxygen, and acute and chronic whole-effluent toxicity ("WET"), and to monitor the discharge from Outfall 002 for flow, total nitrogen, hardness and biochemical oxygen demand ("BOD"). The Permit also authorizes the discharge from Outfall 201 of treated wastewater from the Eastman-owned, Hercules-operated internal wastewater treatment plant within numerical limits prescribed in the Permit for BOD and total suspended solids and to monitor the discharge for flow. Flow from Outfall 201 mixes with non-process flows from elsewhere on the Facility. The combined flows discharge to State waters through Outfall 002. The Permit requires Hercules to report on monthly discharge monitoring reports ("DMRs") the results of monitoring the discharges from Outfalls 002 and 201 according to Permit parameters (except for hexavalent chromium and WET at Outfall 002, which are monitored and reported quarterly). The Permit also prohibits the discharge of pollutants into State waters

except in compliance with the Permit. Hercules submitted DMRs to DEQ documenting the effluent characteristics from Outfalls 201 and 002 for the August 2009 through March 2010 monitoring periods indicating exceedances of Permit limits for BOD at Outfall 201 for three months and for WET at Outfall 002 for one quarter. On September 17, 2010, Hercules reported to DEQ the unauthorized discharge of ammonia-contaminated water through an Eastman cooling water return system that discharges to the outfall canal below Outfall 201 and that leads to Outfall 002. The discharge resulted in a "small number" of dead fish in the outfall canal. Hercules was advised of its VPDES non-compliance issues in Notices of Violation ("NOVs") dated April 13, 2010, June 23, 2010, and November 8, 2010. In its written responses to the NOVs Hercules attributed the BOD exceedances at Outfall 201 to three separate, unrelated events: the low caustic addition in the Hercules process area that caused a carryover of triethlyamine into the neutralization system that is part of the internal wastewater treatment plant; a bio-mass die-off in the internal wastewater treatment plant caused by the discharge of high-pH material when a tube in a chemical feed system was unclogged; and the release of an oil emulsion layer from a wastewater tank. In each instance additional administrative and operational controls were initiated to prevent a recurrence. In its response Hercules determined that the likely cause of the WET exceedance at Outfall 002 was "the presence of naturally occurring pathogens in the wastewater discharge" in the sample that was reported on the quarterly DMR. Hercules personnel took another effluent sample from Outfall 002 three weeks later and had its laboratory perform side-by-side analyses using a longer exposure period for ultraviolet treatment of a split sample. Both results from that sample were within the Permit limit for WET. With respect to the unauthorized discharge of ammonia-contaminated water, Hercules indicated that the cause was a leak in a cooler pipe that was part of Eastman's ammonia refrigeration system that resulted in the ammonia used as a refrigerant entering the lines that convey non-contact cooling water. The non-contact cooling water circulates through the cooling water return system and discharges to the outfall canal below Outfall 201. The cooler was taken off line as soon as the leak was discovered and subsequently replaced. Hercules' response also indicated that Eastman has modified the start-up, testing and inspection protocols for its refrigeration system and has implemented a water-analysis program for its cooling water stream. The "small number" of dead fish had been recovered from the canal downstream of Outfall 002, but before it discharged to the Nottoway River. The Consent Special Order ("Order") would require Hercules to pay a civil charge within 30 days of the effective date of the Order. To ensure that Hercules remains in compliance with the Permit the Order requires Hercules to submit by September 15, 2011, a corrective action plan and schedule for (1) enhanced monitoring of BOD concentrations in the effluent from Outfall 201 and maintaining those concentrations within Permit limits; (2) preventing future releases of ammonia from the Eastman refrigeration system and mitigating environmental damage in the event a release does occur; and (3) improving Hercules' responsiveness in reporting to DEQ unauthorized discharges to state waters. Civil charge: $14,014.

S.E.A. Solutions Corporation, Chesapeake - Consent Special Order with a civil charge: S.E.A. Solutions Corporation ("SEA Solutions") operates a leased Facility in Chesapeake, Virginia, for the dismantling of vessels for the purpose of recycling metals and other materials. The Facility is subject to the Permit through Registration No. VAR051837 ("General Permit"), which was effective July 1, 2009, and expires on June 30, 2014. The Permit authorizes SEA Solutions to discharge to surface waters storm water associated with industrial activity under conditions outlined in the Permit. As part of the Permit, SEA Solutions is required to comply with the best management practices ("BMPs") detailed in the Permit. On October 5, 2010, at approximately 10:00 AM, while conducting a compliance inspection at an adjacent facility, DEQ staff observed an apparent oil sheen in the water between the shoreline and a vessel (*M/V Snow Bird*) that was being disassembled at the SEA Solutions Facility. A short length of oil-absorbent boom was observed in the water close to the shoreline. The boom appeared to be saturated with oil and the oil sheen extended beyond the boom nearly to the stern of *M/V Snow Bird.* A rising tide and the prevailing onshore wind appeared to prevent the sheen from extending beyond the vessel's stern. No other booms were observed. A SEA Solutions employee told DEQ staff that the oil sheen had been first noticed at 7:00 AM at which time the short length of oil-absorbent boom was put in place. The Incident Report from the National Response Center ("NRC") reflects that a representative of SEA

Solutions had contacted the NRC at 10:20 AM, October 5, 2010, to report that at 9:30 AM two gallons of diesel fuel had discharged from a vessel that was being "cut up" at the Facility. The Report states further that the representative indicated that "booms and absorbents were applied and cleanup is underway." The SEA Solutions site supervisor arrived at about 11:00 AM with absorbent pads and an additional absorbent boom. SEA Solutions' oil-spill-response contractor arrived shortly thereafter to begin cleanup. The October 5, 2010, site visit by DEQ staff also revealed that SEA Solutions had failed to implement the BMPs required by the Permit by not removing all oil and contaminated water from the *M/V Snow Bird* and two other vessels at the Facility before beginning dismantling operations and by not properly maintaining the barges used as work surfaces in a clean, orderly manner. DEQ issued SEA Solutions a Notice of Violation ("NOV") on November 8, 2010, for the deficiencies revealed during the October 5, 2010, site visit. SEA Solutions' written response to the NOV summarized the events of October 5, 2010, and acknowledging that the cause of the oil discharge was that all of the oil had not been removed from the *M/V Snow Bird* and that there was an insufficient supply of absorbent materials at the Facility. On November 3, 2010, the United States Coast Guard ("USCG") issued SEA Solutions an Administrative Order that required SEA Solutions to complete an oil/hazardous substance removal plan and imposed additional operational controls on SEA Solutions' vessel-dismantling activities. The USCG determined that about 4,000 gallons of petroleum product was subsequently recovered from the three vessels of which about 1,000 gallons had entered State waters. The Consent Special Order ("Order") would require SEA Solutions to pay a civil charge in three monthly installments with the first installment due by September 1, 2011; to quarterly submit detailed reports of vessel-dismantling activities at the Facility beginning June 10, 2011, and continuing for two years thereafter; and to perform additional monitoring of storm water that discharges from the Facility. The first quarterly report was submitted on June 7, 2011. Civil charge: $29,430.

Tyson Farms, Inc. Temperanceville Complex Wastewater Treatment Plant, Accomack Co. - Consent Special Order with a civil charge: Tyson Farms, Inc. ("Tyson") owns and operates a wastewater treatment facility ("Facility") in Temperanceville, Accomack County, Virginia, that treats effluent from three nearby Tyson processing plants: a poultry hatchery; a poultry processing plant; and a plant for rendering poultry-processing byproducts into usable products. The Facility is subject to the Permit. Among other things, the Permit authorizes Tyson to discharge treated processing plant effluent and storm water runoff from Outfall 001 within limits for pH, biochemical oxygen demand, total suspended solids, oil and grease, ammonia-nitrogen, total phosphorus, total nitrogen ("TN"), total residual chlorine, dissolved oxygen ("DO"), fecal coliform, total recoverable ("TR") copper, and whole effluent toxicity ("WET"). Monitoring results are to be reported to DEQ on monthly discharge monitoring reports ("DMRs"), except that WET is to be reported quarterly. In addition, the Permit, prior to its renewal on December 6, 2010, authorized Tyson to monitor storm water discharges from a storm water retention pond through Outfall 002 according to Permit parameters and submit the results on quarterly DMRs. Tyson submitted DMRs to DEQ documenting the effluent characteristics from Outfall 001 for the April 2009 through August 2010 monitoring periods indicating the following exceedances of Permit limits: TN (4 months); ammonia (2 months); DO (1 month); TR copper (1 month) and WET (2 quarters). On March 18, 2010, DEQ compliance staff conducted a routine inspection of the Facility and observed a discharge from Outfall 002, which was not subsequently reported to DEQ on a DMR. Tyson was advised of its VPDES non-compliance issues in Notices of Violation ("NOVs") dated November 3, 2009, June 14, 2010, August 10, 2010, September 7, 2010, and September 22, 2010. In its written responses to the NOVs Tyson attributed the TN and ammonia exceedances to the failure of the Facility's sub-surface aeration system, which was being replaced with surface aerators as part of an overall Facility upgrade. Specifically, subsurface aerators were being removed and replaced with surface aerators and the anoxic lagoon was being converted into an additional aeration basin. Tyson represented that upgrades to the aeration system had been completed by August 13, 2010. Tyson has reported no exceedances of Permit limits for either TN or ammonia since August 2010. In its responses Tyson stated that it was "unsure of the stressors (if any)" that had caused the WET exceedances reported on two quarterly DMRs. It attributed the low DO level reported on one monthly DMR to improper sampling by a new operator and

stated that all Facility operators were retrained in proper sampling procedures. With respect to the unreported discharge from Outfall 002, Tyson requested that Outfall 002 be eliminated from the Permit. Storm water that accumulates in the storm water retention pond at which Outfall 002 was formerly located is now diverted to the expanded, upgraded waste water treatment Facility rather than discharged directly to State waters. The berm around the storm water retention pond has been reinforced and overhauled. Consequently, the Permit no longer authorizes discharges through Outfall 002. The Consent Special Order ("Order") would require Tyson to pay a civil charge within 30 days of the effective date of the Order. Civil charge: $8,330.

Town of Elkton ("Elkton") STP, Rockingham Co. - Consent Order amendment with civil charge: Elkton owns and operates the Facility located in Rockingham County, Virginia which serves the Town's population of approximately 2639. The Facility is subject to the Permit which authorizes the Facility to discharge treated wastewater to South Fork Shenandoah River, in the Shenandoah River subbasin, Potomac River basin, in strict compliance with the terms and conditions of the Permit. Presently, Elkton is subject to a Consent Order that became effective October 20, 2008, which provided a schedule of compliance to construct STP upgrades and address I&I problems in its collection system to ensure the Facility is capable of meeting the Permit's effluent limitations and to limit/prevent hydraulic overloading of the Facility during wet weather. The design capacity of the Facility has been rated and approved as 0.40 MGD. During 9 months out of a 20-month period (January 2009 through August 2010), the monthly average flows through the Facility have exceeded the Facility's design capacity. Wet weather in late 2009 and early 2010 indicates that significant I&I problems exist as demonstrated by excessive peak flow events / high flow events which can impact the Facility's performance. Elkton exceeded permit limitations for BOD_5 and TSS during the periods of November 2008 through January 2009, May 2009 and December 2009 and February 2010. These effluent violations were primarily attributed to cold weather and/or high influent flows resulting from high rainfall and/or snow melt events and the Town's I&I problems. These events severely impacted Facility performance. VRO issued two NOVs to Elkton primarily for December 2008 and January 2009 effluent violations, and failure to submit plans and specifications for sludge dewatering and UV improvements by December 22, 2008, as required by the Order. From April 2009 through October 2009, VRO issued seven NOVs to Elkton for failure to submit plans and specifications for sludge dewatering and UV improvements by December 22, 2008 as required by the Order. Elkton attributed the delays in submitting the plans and specifications in part to delays in obtaining funding caused by the particularities of DEQ's Revolving Loan Program. One of the above NOVs also cited the May 2009 BOD and TSS loading maximum violations. DEQ issued a NOV to Elkton for the late submittal of a Quarterly Progress Report due October 10, 2009, as required by the 2008 Order. The progress report was subsequently submitted to DEQ. DEQ issued a NOV citing the December 2009 effluent violations. During the period from March 2010 through June 2010, DEQ issued three NOVs primarily citing BOD/TSS effluent violations and for failure to begin construction of the sludge dewatering and UV disinfection upgrades by January 16, 2010, as required by the Order. The Town attributed the delays in beginning construction to delays in receiving the funding to proceed with the work. On June 10, 2010, VRO issued a NOV to Elkton for failure to maintain a UV intensity/turbidity alarm with a remote dialer to notify the Facility operator of discharges of solids exceeding the unit's design parameters. By letters dated May 27, 2010, July 29, 2010, August 25, 2010, and November 22, 2010, Elkton submitted to DEQ a plan and schedule of corrective actions to further address the Town's I&I problems and to complete construction of the Facility upgrades for incorporation into an Amendment. In order for Elkton to return to compliance, DEQ staff and representatives of Elkton have agreed to the Schedule of Compliance, which is incorporated as Appendix A of the proposed Amendment and requires Elkton to complete construction of the Facility upgrades and conduct certain I&I corrective actions to address collection system deficiencies. The proposed Order amendment contains a civil charge and a plan and schedule of corrective actions was signed by the Town on March 23, 2011. Civil charge: $3,920.

Rivanna Water & Sewer Authority – Moores Creek Regional STP ("RWSA"), Charlottesville - Consent Special Order without civil charge: RWSA owns and operates the Facility and a sanitary sewer transmission system, which includes both gravity and force mains, which serves the city of Charlottesville ("the City"), Virginia, the University of Virginia, and portions of Albemarle County, Virginia. RWSA is a wholesale wastewater utility, receiving and treating wastewater from the collection systems owned and operated by the City and Albemarle County Service Authority ("ACSA"). The Permit authorizes RWSA to discharge treated sewage and other municipal wastes from the Facility, to Moores Creek, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility has been rated and approved as 15 MGD. RWSA is presently constructing a Facility upgrade to comply with annual nutrient wasteload allocations which went into effect on January 1, 2011. In addition, the construction upgrade will increase the Facility's ability to treat peak flows to 37.5 MGD and then ultimately to 45 MGD by 2013. RWSA is also in the process of increasing the sizing/capacity of the Meadow Creek Interceptor to improve the transmission of wastewater to the Facility. RWSA expects to be able to meet its annual nutrient wasteload allocations through unit processes brought on-line with construction in progress. However, if RWSA is unable to meet those limits, it will purchase nutrient credits until construction of sufficient treatment units are completed. RWSA owns 42.1 miles of transmission system pipeline and seven (7) pump stations, which together constitute the interceptor line system transmitting wastewater to the Facility from the City and portions of Albemarle County. The City and ACSA each own and operate a sanitary sewer collection system which collects sewage within its individual jurisdictional boundary and transfers it to the Facility for treatment. Since 2006, RWSA, the City, and ACSA have worked together to conduct flow studies, analyze flow data, assess wet weather limitations, calibrate a transmission system computer model, forecast future dry weather flows through land development projections, and identify inflow and infiltration reduction goals across all sewer collection systems connected to the Facility. The goal of these projects is to assure adequate capacity in the transmission and treatment systems with emphasis on addressing unpermitted discharges. The three entities are working cooperatively to upgrade their respective sewer collection systems. RWSA has reported a number of unpermitted discharges from the Facility and interceptor lines since April 2006 through March 2011. RWSA attributed the unpermitted discharges to inflow and infiltration volume from the collection systems that exceeded the hydraulic capacities of the Facility and its interceptors during periods of heavy rainfall. In addition, RWSA reported exceedances of ammonia effluent limits during November 2009 that RWSA attributed to high rainfall events, which hydraulically overloaded the Facility beyond its engineered capacity, thereby adversely affecting treatment efficiencies. On January 13, 2010, VRO issued a Warning Letter to RWSA for ammonia loading maximum and concentration maximum effluent limits violations during November 2009. On March 10, 2010, VRO issued a Warning Letter to RWSA for the unpermitted discharge of approximately 90,000 gallons of wastewater to Moores Creek on January 17, 2010. On April 2, 2010, DEQ staff met with representatives of RWSA, the City, and ACSA to discuss the unpermitted discharges, the capacity and collection system restrictions that led to the discharges, and the necessary corrective actions undertaken and planned for the future. DEQ requested the three entities each submit a plan and schedule of corrective actions to address I&I and capacity issues in their individual collection systems. On April 21, 2010, VRO issued a Warning Letter to RWSA for unpermitted discharges to state waters from August 2008 through March 2010. By letter dated May 27, 2010, RWSA submitted to DEQ a summary of completed and in-progress corrective actions, and a plan and schedule of future corrective actions to address the unpermitted discharges. In order for RWSA to return to compliance, DEQ staff and representatives of RWSA have agreed to the Schedule of Compliance, which is incorporated as Appendix A of the proposed Order. The proposed Order contains a plan and schedule of corrective actions to address I&I and was signed by the City on March 22, 2011.

Albemarle County Service Authority ("ACSA") - Consent Special Order without civil charge: ACSA owns and operates a sewage collection system, which includes both gravity and force mains, which serves portions of Albemarle County, Virginia. The ACSA collection system is connected to the Rivanna Water and Sewer Authority's (RWSA) Moores Creek Regional sewage treatment plant ("Facility"). The collection system is comprised of approximately 245 miles of sewer lines, 7,860

manholes, and 11 pump stations. The system has 13,826 connections serving a population of 54,358 people. RWSA owns and operates the Facility and a sanitary sewer transmission system, which includes both gravity and force mains, which serves the City of Charlottesville (the "City"), the University of Virginia and portions of Albemarle County, Virginia. RWSA is a wholesale wastewater utility, receiving wastewater from the collection systems owned and operated by ACSA and the City. The Permit allows RWSA to discharge treated sewage and other municipal wastes from the Facility, to Moores Creek, in strict compliance with the terms and conditions of the Permit. The design capacity of the Facility has been rated and approved as 15 MGD. Since 2006, ACSA, the City and RWSA have worked together to conduct flow studies, analyze flow data, assess wet weather capacity limitations, calibrate a transmission system computer model, forecast future dry weather flows through land development projections, and identify inflow and infiltration reduction goals across all sewer collection systems connected to the Facility. The goal of these projects is to assure adequate capacity in the transmission and treatment systems with emphasis on minimizing unauthorized discharges. The three entities are working cooperatively to upgrade their respective sewer collection systems. ACSA had unauthorized discharges to State waters from its collection system on November 17, 2008, April 27, 2009, and June 22, 2009. ACSA attributed the unauthorized discharges to loss of three phase power to a pump station and two grease blockages which were promptly corrected. On April 2, 2010, DEQ staff met with representatives of ACSA, the City and RWSA to discuss the recent unauthorized discharges, the problems that led to the violations, and corrective actions being taken and needed to address the problems. DEQ requested the three entities each submit a plan and schedule of corrective actions to address I&I and capacity issues in their collection systems. On April 21, 2010, VRO issued a Warning Letter to ACSA for the unauthorized discharges to State waters. By letter dated May 10, 2010, ACSA responded to the Warning Letter, laying out its programs and procedures in place or planned to address the unpermitted discharges. By letter dated May 27, 2010, ACSA submitted to DEQ a summary of completed or in-progress corrective actions, and a plan and schedule of future corrective actions to address the unpermitted discharges. ACSA is to continue to conduct collection system investigations to identify problems, and continue to take corrective actions to address I&I problems and collection deficiencies as incorporated into Appendix A of the proposed Order. The proposed Order contains a plan and schedule of corrective actions to address I&I and was signed by the ACSA on March 17, 2011.

City of Charlottesville collection system - Consent Special Order without civil charge: The City of Charlottesville ("the City"), Virginia owns and operates a gravity sewage collection system, which serves customers in the City. The City's collection system is connected to Rivanna Water and Sewer Authority's ("RWSA") Moores Creek Regional sewage treatment plant ("Facility"). The collection system is comprised of approximately 167 miles of sewer lines with 5,376 manholes. The system has 14,065 customers within a population of 42,218 people. RWSA owns and operates the Facility and a sanitary sewer transmission system, which includes both gravity and force mains, which serves customers in the City, at the University of Virginia and in portions of Albemarle County, Virginia. RWSA is a wholesale wastewater utility, receiving and treating wastewater from the collection systems owned and operated by the City and ACSA. The Permit authorizes RWSA to discharge treated sewage and other municipal wastes from the Facility, to Moores Creek, in strict compliance with the terms and conditions of the Permit. The design flow of the Facility has been rated and approved as 15 MGD, measured as a monthly average flow. Since 2006, the City, RWSA and ACSA have worked together to conduct flow studies, analyze flow data, assess wet weather limitations, calibrate a transmission system computer model, forecast future dry weather flows through land development projections, and identify inflow and infiltration reduction goals across all sewer collection systems connected to the Facility. The goal of these projects is to assure adequate capacity in the transmission and treatment systems with emphasis on addressing unpermitted discharges. The three entities are working cooperatively to upgrade their respective sewer collection systems. The City has reported unpermitted discharges to state waters from its collection system during the period from February 2008 through March 2011. The City attributed the unpermitted discharges to inflow and infiltration ("I&I") into its collection system during periods of heavy rainfall and certain transmission system restrictions. The majority of the unpermitted discharges

were to the Rivanna River, with some others to Lodge Creek, Moores Creek and Meadow Creek. On April 2, 2010, DEQ staff met with representatives of the City, RWSA and ACSA to discuss the unpermitted discharges, the capacity and collection system restrictions that led to the discharges, and the necessary corrective actions undertaken and planned for the future. DEQ requested the three entities each submit a plan and schedule of corrective actions to address I&I and capacity issues in their individual collection systems. On April 21, 2010, VRO issued a Warning Letter to the City for unpermitted discharges to State waters from July 2008 through March 2010. By letter dated May 27, 2010, the City submitted to DEQ a summary of completed and in-progress corrective actions, and a plan and schedule of future corrective actions to address the unpermitted discharges. In order for the City to return to compliance, DEQ staff and representatives of the City have agreed to the schedule of compliance, which is incorporated as Appendix A in the proposed Order. The proposed Order contains a plan and schedule of corrective actions to address I&I and was signed by the City on March 22, 2011.

Titan Virginia Ready-Mix LLC/Mechanicsville Concrete LLC - Consent Special Order w/ Civil Charges: Titan Virginia and Mechanicsville Concrete are sister companies which operate a number of ready-mix concrete facilities. The proposed order addresses violations of State Water Control Law requirements at four ready-mix facilities operated by Titan and discovered either through records review or facility inspections. The other three facilities listed in the order's heading will be the subject of Air Pollution Control Board action. The violations include unpermitted discharges, failure to report the unpermitted discharges, failure to perform and/or to submit results from required monitoring of facility discharges, failure to follow appropriate laboratory procedures in analyzing facility discharges, failure to conduct required inspections, poor housekeeping, deficiencies in stormwater pollution prevention ("SWPPP") and operation and maintenance plans and failure to maintain freeboard in a wastewater basin. The violations in the main appear to be the result of poor operating practices, lack of training in proper operating and laboratory practices, lack of oversight of compliance with regulatory requirements by facility management, as well as failure to attend sto SWPPP requirements. There was no documented environmental harm from the violations, however a risk of harm existed, particularly from an unpermitted discharge at the Campostella facility which had a pH of 9.5 and a discharge at the Clear Brook facility of contaminated stormwater into a drinking water source. All corrective action required to address the violations noted in the order has been completed. Other than the cost of regrading a small portion of the Clear Brook facility there do not appear to be any additional costs associated with the activities necessary to achieve compliance since the activities were apparently carried out without hiring additional staff to perform the necessary corrective actions. Civil charge: $74,379 for violations of both the air and water pollution control laws and requires that $7,500 of the civil charge be paid in cash with the remainder ($66,879) offset by the completion of a Supplemental Environmental Project (SEP) that requires implementation of a computerized Environmental Management System which will enhance the companies' ability to anticipate permit, regulatory and statutory requirements at its several dozen concrete ready-mix facilities.

Town of Crewe - Consent Special Order w/Civil Charges: The Town of Crewe has attempted, for a number of years, to address infiltration and inflow within its sewage collection system. In both 1999 and 2005 the Board issued administrative orders requiring that Crewe make all cost-effective repairs to its collection system necessary to eliminate excessive infiltration and inflow from the system. Although the Town complied with the terms of the orders, sanitary sewer overflows continue to occur within the collection system and bypasses continue to occur at the Town's sewage treatment plant. The majority of these overflows and all of the bypasses have been attributed by the Town to high system flows caused by significant infiltration and inflow into the system. While no environmental or public health effects have been definitively linked to the overflows and bypasses, the risk of such effects exists. The proposed order also addresses a single permit effluent limit violation and two events of untimely reporting of sanitary sewer overflows. There have been no environmental or public health effects linked to these violations and given their isolated nature, the risk of such harm is small. The order required the Town to submit, by June 1, 2011, a detailed plan and schedule to address infiltration and inflow within its treatment works in

order to eliminate unpermitted discharges to state waters. The plan, containing the schedule, was submitted in a timely fashion and, in essence, proposes to repair, replace or slipline all portions of the collection system located in the eastern end of the Town that were not repaired or replaced as part of corrective action taken under the 2005 order. It is in the eastern portion of the Town that the sewer lines are oldest and where, by a vast majority, the unpermitted discharges or overflows are reported. Because the Town is fairly confident of receiving project financing from DEQ's Construction Loan program as well as possible grant funding from the USDA, it believes that it has the means to undertake a much more comprehensive approach to system repair than it has been able to afford in the past. DEQ staff are in the process of reviewing the corrective action plan for sufficiency. Civil charge: $31,200 with $28,080 offset by completion of a Supplemental Environmental Projects that require the creation and implementation of a comprehensive operation and maintenance program for the treatment system, in order that the Town can in the future proactively address system defects which could lead to unpermitted discharges and the upgrade of the Town's wastewater treatment plant to provide additional holding and settling capacity, in order to improve plant operations and enhance effluent quality beyond what is necessary to meet Permit effluent limits.

Celebrate Virginia North Community Development Authority/T.S.C., Stafford Co. - Consent Special Order w/Civil Charges: Celebrate Virginia! North is a master planned community in Stafford County. DEQ issued VWP Permit No. 00-1816 to Celebrate Virginia North Community Development Authority and T.S.C. (CVA/T.S.C) in 2000 for impacts associated with the development. Williamsburg Environmental Group (WEG), CVA/T.S.C's consultant, submitted construction monitoring reports (CMR) on June 10, 2008. These CMRs along with DEQ inspections conducted on February 5, 2008, and December 23, 2008, identified additional impacts beyond those that were permitted. In addition, CVA/T.S.C. failed to provide the flow rate and methodology to comply with the 30 percent minimum in-stream flow (MIF) for the on-site irrigation pond and the unnamed tributary of the Rappahannock River as required by Part I.B.6 of the Permit. DEQ issued a Warning Letter on February 11, 2009 for these items and subsequently met with CVA/T.S.C. on February 25, 2009 to discuss. During this meeting, DEQ requested additional information from CVA/T.S.C. to further evaluate the impacts. Based on the additional submissions from WEG on CVA/T.S.C.'s behalf sent on July 31, 2009, and revised on August 25, 2009, the total unauthorized impacts total 0.37 acre of wetlands and 518 linear feet of intermittent stream channel. On September 23, 2009, DEQ issued a Notice of Violation to CVA/T.S.C. for exceeding permitted impacts and for failing to provide the flow rate and methodology to comply with the 30 percent MIF. DEQ met with CVA/T.S.C. and WEG on December 7, 2009, to discuss the unpermitted impacts, possible compensation, and the required flow rate and methodology. CVA/T.S.C. explained that while there is one permit, there are multiple entities that have ownership of and are developing the parcels covered under this permit which led to a portion of the unpermitted impacts. Additionally, some violations stemmed from a change in stormwater regulations that originally required dry ponds. On April 14, 2010, CVA/T.S.C. submitted MIF monitoring procedures for DEQ review and approval. The Order will require CVA/T.S.C to purchase 0.67 wetland credits from an approved wetland mitigation bank to compensate for the 0.37 acre of unauthorized wetland impacts. CVA/T.S.C. will also be required to submit an approvable Corrective Action Plan that will detail how it will either restore or provide compensation for the 518 lf of stream channel that was impacted without a Permit. The CAP must meet the requirements of 9 VAC 25-210-116 and be sufficient to achieve no net loss of functions in all surface waters. Additionally, CVA/T.S.C. will be required to comply with the water withdrawal monitoring procedures approved by DEQ and submit and Operations and Maintenance Manual which will outline how the irrigation system will by managed to comply with the Permit. Civil charge: $19,232.50.

SCI Virginia Funeral Services, Inc. / King David Memorial Cemetery, Fairfax Co. - Consent Special Order with civil charge- Issuance: SCI Virginia Funeral Services, Inc. (SCI) owns the King David Memorial Cemetery (King David) located in Fairfax County, Virginia. The King David site consists of burial plots, access roadways, streams and other associated infrastructure. On December 2, 2010 at a pre-application meeting regarding a separate project, DEQ was notified by Wetland Studies and

Solutions, Inc. (WSSI), on the behalf of SCI, that during spring 2004 and fall 2005, grading for the installation of a stormwater pipe and clearing of a forested buffer had resulted in unauthorized impacts to surface waters on the property. WSSI provided a follow-up letter with this information to DEQ on December 10, 2010. On January 6, 2011, DEQ received a copy of the Nationwide Permit #32 Authorization Request (NWP #32 Request), dated January 5, 2011, from WSSI on behalf of SCI to United States Army Corps of Engineers (USACE). The NWP#32 Request is currently being processed by USACE. The NWP #32 Request detailed the unauthorized impacts to surface waters, consisting of the permanent impacts to 449 LF (0.05 acre) of stream channel and temporary impacts to 0.06 acre of PFO. All impacts were taken without the issuance of a Virginia Water Protection (VWP) Permit. As a result of the unauthorized impacts detailed in the NWP #32 Request, DEQ issued a Notice of Violation (NOV), W2011-01-N-001, to SCI on February 10, 2011. On February 22, 2011, WSSI provided DEQ with a NOV response letter explaining the background of the case and requesting a meeting with DEQ. The letter proposed that compensation for the stream impacts shall be provided through the following: (1) the purchase of 383 stream condition units (SCUs) from Northern Virginia Stream Restoration Bank to compensate for the functional loss of 180 linear feet of stream channel and (2) the restoration of 217 LF of the disturbed stream channel, and the enhancement of 306 linear feet of the riparian buffer along an unnamed tributary to Holmes Run through reforestation to compensate for the functional loss of 269 linear stream channel. This recommended compensation is appropriate based on Guidance Memorandum 00-2003, "Wetland Compensation Ratios" and the Uniform Stream Methodology, respectively. The wetland impacts to 0.06 acre of PFO shall be provided through the restoration of the impacted wetland. In order to bring SCI into compliance, resolve the violations and facilitate the restoration effort, the requirement to submit a Corrective Action Plan (CAP) will be incorporated into the Appendix A items in a Consent Order (Order). The Order requires the purchase of 383 SCUs from Northern Virginia Stream Restoration Bank and the submittal of a Corrective Action Plan (CAP) that details the full restoration of 217 LF of stream channel and buffering of 306 linear feet of unnamed tributaries to Holmes' Run and the full restoration of the temporary impacts to 0.06 acre of PFO. Appendix A does not require SCI to obtain permit authorization because the impacts associated with the project have been taken and Appendix A requires compensation and restoration to ensure no net loss surface water function. The cost associated with returning to compliance, including Appendix A of the Order, is estimated at $417,025. Civil charge: $17,500.

Woodhaven Water Company, Inc., Woodhaven Shores Water System, New Kent Co. - Consent Special Order w/ Civil Charges: The Woodhaven Water Company, Inc. (Company) owns and operates the Woodhaven Shores Water System located in New Kent County. DEQ issued Ground Water Withdrawal Permit No. GW001000 (Permit) to the Company on October 1, 1995. The Permit expired on October 1, 2005. Although DEQ staff worked with the Company to complete an application for Permit renewal, the requested information was not provided. The Company needed to take steps to determine Customer water use versus water loss from leaks in the system, and to provide that and other information to DEQ in order to process the Permit renewal application. Due to failure to provide requested information, a Notice of Violation (NOV) was issued to the Company on September 24, 2008, which cited: 1) the expiration of the Permit on October 1, 2005; 2) DEQ records indicated the Company continued to withdraw ground water from the production wells without a Permit; and 3) DEQ had not received a complete application for renewal of the Permit. On December 18, 2008, the Company met with DEQ to discuss resolution of the violations described in the NOV. The Company cited funding issues for failure to provide the required information to complete the renewal application for the Permit. In order for the Company to return to compliance and to conserve ground water resources, DEQ staff and representatives of the Company have agreed to the Schedule of Compliance which is incorporated in Appendix A of the Order. The Woodhaven Water Company, Inc., agreed to the Consent Special Order with DEQ to address the above described violations. The Order requires that the Company install water reading meters at all connections on or before December 10, 2011; conduct and submit a report of a well water system audit on or before June 10, 2012; submit an annual audit report by December 10, 2012, with status updates until the Permit application is deemed complete; finalize and submit a complete and an

approvable Water Conservation and Management Plan once the water audit information is available, but, by no later than December 10, 2012; complete and submit an approvable Permit application no later than December 10, 2012; continue submitting quarterly progress reports until the Permit application is complete; and respond to all Notices of Deficiency or information requests from DEQ per the terms and timelines provided in each notice. The Order also requires the payment of a civil charge. DEQ staff estimated the cost of injunctive relief to be approximately $200,000. Civil charge: $29,623.

Petroleum Marketers, Inc., Bedford Co. - Consent Special Order w/ Civil Charges: Petroleum Marketers, Inc. ("PMI") transports petroleum products to customers as an operator of tractor trailer tankers. On October 14, 2010 a PMI tanker truck laden with approximately 8,500 gallons of oil ran off the road and down an embankment. The tanker came to rest upside down and two compartment lids broke allowing approximately 3,500 gallons of oil to drain onto the ground and into an un-named tributary ("UT") to Goose Creek. The UT to Goose Creek is a state water. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems and PMI is subject to the statutory prohibition. Emergency response personnel pumped approximately 5,000 gallons of oil from the tanker truck. Approximately 56 native fish and several hundred salamanders, and crayfish were killed by the discharge of oil to the UT of Goose Creek. As a result of the unpermitted discharge to state waters of petroleum, the Department issued Notice of Violation No. NOV-10-10-BRRO-003 to Petroleum Marketers, Inc. on October 26, 2010. The Order before the Board assesses a civil charge to PMI for the unauthorized discharge of oil to the UT of Goose Creek, which resulted in PMI violating Article 11 of the State Water Control Law addressing Discharge of Oil into Waters. PMI has completed a corrective action plan for restoration of the accident site and the oil impacts to state waters. Approximately 167 dump truck tandem loads of soil were excavated from the discharge location. PMI provided the Department documentation that it has expended in excess of $575,000 on the clean-up and restoration. The Order before the Board also recovers the DEQ investigative costs associated with the discharge and recovers the fish replacement costs as well. Civil charge: $28,003.50.

Baltimore Tank Lines, Inc., Fairfax Co. - Consent Special Order with civil charge- Issuance: Baltimore Tank Lines, Inc. (Baltimore Tank Lines) transports petroleum products to customers via tractor trailer tankers. On August 28, 2010, DEQ received notification from the Virginia Department of Emergency Management (VDEM) of a discharge of gasoline into a storm drain inlet at the intersection of Main Street (Route 236) and Picket Road, Fairfax City, which led directly into Crook Branch. The gasoline is a petroleum product, and is included in the definition of "oil" under Va. Code § 62.1-44.34:14. The first and second notification, made to VDEM by Baltimore Tank Lines, indicated that on August 28, 2010, a Baltimore Tank Lines tanker truck laden with 8,800 gallons of gasoline was in an accident when, according to the City of Fairfax Police Department accident report dated August 28, 2010, the driver ran a red light and the truck overturned in the intersection. The impact caused a breach of the tank and the release of approximately 4,680 gallons of fuel which contaminated soil in a swale area near the impact area and drained into a storm drain into Crook Branch. Free product was observed in Crook Branch from upstream at Leamington Court to the Prince William Drive downstream. The gasoline impacted approximately 1150 feet of a closed storm drain, 650 feet of open concrete culvert and 500 feet of Crook Branch. DEQ staff members were called to the accident site and observed the cleanup of the spill conducted by the private remedial contractor, hired by Baltimore Tank Lines. During the cleanup, the overturned tanker truck was offloaded of 4,120 gallons into another truck. DEQ observed that the contractor had placed booms and used a vacuum truck in certain locations of Crook Branch to recover the free product. Approximately 4,210 gallons of gasoline was recovered during the clean-up. On September 2, 2010, the contractor removed approximately 50 tons of soil, potentially contaminated with gasoline, from the site and replaced it with clean topsoil and seed. In response to the accident and the observed violations, DEQ issued a Notice of Violation (NOV), dated September 16, 2010, to Baltimore Tank Lines for discharge of oil into the environment. On September 29, 2010, the contractor hired by Baltimore Tank Lines removed all of the remaining absorbent booms and had completed the clean-up of the impact area. The Contractor submitted a cleanup report to DEQ on October 25, 2010, and the final report was

approved by DEQ on November 15, 2010. Issue a Consent Order with a Civil Charge including investigative costs. Since the cleanup is complete no injunctive relief (Appendix A) is required. The cost associated with returning to compliance, was $186,651. Civil charge: $50,000 and $2,547.35 in investigative costs.

Northrop Grumman Systems Corporation, Fairfax - Consent Special Order w/ Civil Charges: Northrop Grumman Systems Corporation (Northrop Grumman) operates the Northrop Grumman Systems Corporation Facility located at 12900 Federal Systems Park Drive (Facility). The Facility is an office building where there are six emergency generators and other smaller fuel combustion equipment with underground piping. Northrop Grumman notified DEQ on March 10, 2010 that a petroleum sheen was observed within an emergency generator enclosure at the Facility. The report indicated that a petroleum odor had been noticed in the basement next to the generator area on March 9, 2010. Northrop Grumman was not able to find the source of the petroleum at the time. On March 10, 2010, a contractor was called on site to clean up the stained gravel. Once the stained gravel was dug up, additional diesel fuel was found. At this time Northrop Grumman notified DEQ. No additional fuel was observed at this time, and no product or petroleum sheen was seen on the surface of an adjacent stormwater pond. Additional pads were placed at the storm drain located between the Above Ground Storage Tanks and the generators in the generator area. On March 11, 2010, DEQ staff conducted a site inspection of the Facility and observed that petroleum had been discharged upon land inside of the emergency generator area. At this time, DEQ staff requested that pressure testing of the underground lines be conducted. Northrop Grumman agreed to do this, and directed their contractor to do the testing. Of the three underground lines that were tested, two passed, and the underground line leading to the life safety generator failed. The maintenance contractor shut off diesel service from the AST to the life safety generator, while the contractor capped the line and cleaned it out for closure in place. On March 15, 2010, DEQ staff conducted an additional site inspection and observed that a discharge from the emergency generator enclosure had occurred resulting in a sheen upon the stormwater pond. Northrop Grumman's contractor placed booms in the stormwater pond at this time to contain the product. As a result of the discharge, a Notice of Violation was issued to Northrop Grumman on June 9, 2010. Northrop Grumman was subsequently referred to enforcement in June 2010 as a result of this oil release. Northrop Grumman estimates that approximately 675 gallons of product was potentially released into the environment. A Site Characterization report prepared by Northrop Grumman's consultant indicated that neither free-phase petroleum nor diesel saturated soils were encountered during soil boring activities. Northrop Grumman has agreed to inspect the emergency generator area and the storm water management pond for the presence of a petroleum sheen after any significant rain or snow event. The Order requires Northrop Grumman to submit a post characterization report as required by the DEQ Remediation program pursuant to a timeline set forth in a letter dated October 29, 2010, from DEQ. The letter requires Northrop Grumman to inspect the emergency generator enclosure and the storm water management pond through the winter season of 2010/2011 for the presence of petroleum sheen after any significant rain or snow event. The letter requires a post site characterization report to be submitted to DEQ on or before April 1, 2011, describing the aforementioned observations. Civil charge: $7,904.25.

TransMontaigne Operating Company L.P., Fairfax - Consent Special Order w/ Civil Charges: TransMontaigne Operating Company L.P. (TransMontaigne) owns a petroleum liquid storage and distribution terminal (Facility) located in Fairfax County, VA. The Facility consists of multiple above ground storage tanks (ASTs) to store the product. As required by 9 VAC 25-91-130.A.9, TransMontaigne maintains leak detection for its AST's in the form of monitoring wells (MW). On January 30, 2010, after receiving notification from TransMontaigne, the Virginia Department of Emergency Management reported to DEQ that a discharge of diesel fuel occurred at the Facility. After DEQ requested additional information, TransMontaigne advised that on January 28, 2010, during routine monthly site monitoring well activities, TransMontaigne's consultant, Piedmont Geologic (Piedmont) observed approximately 6 feet of product in MW-26. Upon discovering the product, tests were conducted that confirmed it was diesel fuel. The diesel storage tanks were isolated from the lines. On January 30,

2010, TransMontaigne conducted leak testing of the underground piping between the tanks and the truck loading rack and identified two short sections of subsurface piping at the loading rack as the probable location for the discharge. No other problems were noted with the remaining underground piping associated with the diesel tanks. On February 2, 2010, TransMontaigne submitted an initial Environmental Site Assessment Workplan summary. The summary was followed on March 8, 2010, by an Interim Corrective Action Plan (CAP) setting forth the plan for remediating the site which included using a dual phase vacuum extraction system (DPVES). DEQ approved the Interim CAP on April 14, 2010. Between January 28, 2010, and April 12, 2010, TransMontaigne recovered approximately 4,637 gallons of product from the subsurface of the Facility. On April 15, 2010, DEQ issued a Notice of Violation (NOV) to TransMontaigne citing a violation of Va. Code §62.1-44.34:18 for discharging oil to state water and Va. Code §62.1-44.34:19 for failing to immediately report the discharge. TransMontaigne explained during a meeting with DEQ on April 29, 2010, that it failed to report the discharge on January 28, 2010, when product was first found since it was still unknown if it was a reportable event. They assert that once pressure testing confirmed on January 30, 2010, that there was a leak, notice was immediately provided to DEQ. On May 24, 2010, TransMontaigne notified DEQ of a release of product from the DVPES to a stormwater holding pond owned by the Joint Basin Commission. The release occurred after a high-level alarm on the system was triggered on Saturday May 22, 2010. An on-site operator responded to the alarm and disconnected power to the system. No release was noted by the operator at the time. The release was discovered on Monday May 24, 2010, by a terminal operator. TransMontaigne estimated a discharge of approximately 282 gallons. As a result of the discharge, TransMontaigne shut down the remediation system and proposed a system of upgrades to prevent a reoccurrence of the overflow. The Order will require TransMontaigne to continue to comply with the Interim CAP. Upon notification from DEQ, TransMontaigne shall submit a Final CAP. TransMontaigne has already updated its notification procedures in the event of a future discharge; therefore no corrective action is required for this violation. Civil charge: $114,385.48 of which $85,789.11 will be offset through the implementation of a Supplemental Environmental Project that requires TransMontaigne to install above ground piping at the load rack areas.

W. Harold Talley II, LLC, Surry - Consent Special Order - Issuance: W. Harold Talley II, LLC (Talley) is the owner of a gas station located at 11965 Rolfe Highway, Surry, Virginia (Facility). Talley is an underground storage tank (UST) owner within the meaning of Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10. On August 24, 2009, DEQ staff conducted a compliance inspection of the two USTs located at the Facility. Subsequently, the Department conducted a review of the DEQ Facility file and registration documents. The following violations were noted as a result: (1) The two USTs were not registered under Talley's ownership and the Form 7530-2 needed to be updated for pipe release detection method, type of overfill protection, and tank material construction; (2) Spill catchment basins filled with liquid and debris and the fill ports were not labeled; (3) Talley failed to provide documentation of what type of tank and piping corrosion protection was in place; (4) Talley failed to use an appropriate method of release detection; (5) Piping release detection records and tank records were not available for review; (6) During the inspection it was noted that the automatic tank gauge (ATG) showed active alarms. Talley failed to notify and report a possible release; and (7) Financial responsibility documentation was not available. On August 24, 2009, the Department issued a Request for Corrective Action ("RCA") to RHM/Surry LLC, the operator of the Facility who claimed responsibility during the time of the inspection. The RCA requested correction of all of the above-listed violations. No response was received. On December 9, 2009, the Department issued a Warning Letter to RHM/Surry, LLC. The Warning Letter requested correction of all of the above-listed violations. No response was received. The Department issued a Notice of Violation (NOV) to Talley and RHM/Surry, LLC on March 25, 2010 for these apparent violations. The Department has received the following: documentation that confirmed that the spill catchment basins had been emptied, passing tank release detection test results for the two USTs at the Facility, information that reconciled the violation associated with the ATG alarms, documentation that resolved the cathodic protection system testing violation, and passing line tightness and line leak detector test results. During a follow up inspection at the Facility DEQ staff observed that the spill catchment

basins were properly labeled and that the overfill device was operating as required. Staff also reviewed ATG monitoring results which confirmed passing tank release detection for the USTs at the Facility. The consent order requires Talley to submit a complete 7530-2 Form for the USTs and provide documentation of financial responsibility. The injunctive relief that Talley will incur as a result of the violations was estimated to be approximately $9,030.

Judy M. McGee/Martin E. McGee (the former GUNZ Grocery and Deli) - Consent Special Order w/ Civil Charge and Fund Reimbursement: Judy M. McGee owned USTs at the Facility in Tazewell County**,** Virginia. Judy M. McGee stored gasoline in USTs at the Facility. Judy M. McGee was an UST owner within the meaning of Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10. Martin E. McGee was an UST Operator within the meaning of Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10. Judy M. McGee was found to be the Owner and Responsible Person for the USTs located at the Facility as a result of an Informal Fact Finding proceeding held June 2, 2009, with finding made by Case Decision on August 24, 2009. DEQ received results of tracer tests that were performed on three USTs at the site from Corrpro Companies, Inc. May 24, 2005. These tests were performed in March, 2005 and reported to Corrpro in April, 2005 by Tracer Research/Pixair. Two of the three tanks tested failed. By letter dated June 8, 2005, DEQ notified Mr. McGee of this potential petroleum release, Pollution Complaint ("PC") No. 2005-1069. That letter defined actions required for conducting release confirmation and performing certain activities associated with the release. These included submittal of an Activity Authorization Package by June 24, 2005, with performance of a "Site Check" notification to DEQ of either positive or negative confirmation of a release within 24 hours of discovery and submittal to DEQ of a Release Investigation and Confirmation Report by August 1, 2005. No response was received to the June 8, 2005 letter. An NOV issued September 21, 2005 and mailed by certified mail was returned unclaimed. An NOV was hand delivered to Mr. McGee in person on January 20, 2006. It cited failure to respond to the June 8, 2005 potential petroleum release letter. By letter dated May 25, 2006, Mr. McGee was notified of DEQ's intent to initiate corrective actions at the site (a site check) and pursue cost recovery. By letter dated November 21, 2006, Mr. McGee was notified of DEQ's intent to continue corrective actions (a site characterization and report) and pursue cost recovery. Each letter gave Mr. McGee the opportunity to notify DEQ that he would have the work done, and then proceed to have the work done. In each instance, no response was received by DEQ. Both a site check and a site characterization and report were completed for the tanks in question by a DEQ "state lead" contractor, paid by DEQ. On September 26, 2007, Department staff inspected the Facility for compliance with the requirements of the State Water Control Law and the Regulations. At that time, there were three USTs on-site: two 8,000 gallon gasoline USTs (tanks 1 and 2), and one 4,000 gallon gasoline UST (tank 3). DEQ staff observed that the tanks at the Facility were not in use, but had not been properly placed in "Temporary Closure" or permanently closed. An NOV was issued January 23, 2008 and mailed by certified mail. It cited failure to respond to the June 8, 2005 potential petroleum release letter, failure to conduct a site check and failure to conduct a site characterization. That NOV was signed for by Judy McGee on February 7, 2008. Another NOV, citing the same items was issued to both Martin E. McGee and Judy M. McGee on April 24, 2008. Judy M. McGee was found to be the Owner and Responsible Person for the USTs located at the Facility as a result of an Informal Fact Finding proceeding held on June 2, 2009, with finding made by Case Decision on August 24, 2009. Neither Martin E. McGee nor Judy M. McGee attended this proceeding. An Informal Fact-Finding Proceeding regarding Delivery Prohibition, held at DEQ's SWRO on November 17, 2010, found that UST Numbers 1 and 3 were in violation of the Regulations, due to failure to perform initial abatement measures and a site check. These tanks were "red-tagged" for delivery prohibition on November 22, 2010. Per documentation submitted to DEQ on May 10, 2011, Judy M. McGee sold all USTs at the Facility to Douglas Vance on April 13, 2011. Articles 9 and 10 of Va. Code, Sections 62.1-44.34:8 – 62.1-44.34:13, inclusive, address requirements for performance of activities related to the potential release. The Virginia Administrative Code requires the following activities by the regulations cited: performance of a Site Check is required by Regulation 9 VAC 25-580-210; notification of release within 24 hours of confirmation of release is required by Regulation 9 VAC 25-580-240; a release confirmation report is required by Regulation 9 VAC 25-580-250; performance of a Site Characterization

is required by Regulation 9 VAC 25-580-260. Virginia Code Section 62.1-44.34:9(10) authorizes pursuit for reimbursement of costs incurred by the State of Virginia. Based on the results of September 26, 2007 inspection, the Facility file review, the Informal Fact Finding Proceeding held on June 2, 2009 to determine the Responsible Person**,** and the Informal Fact Finding Proceeding held November 17, 2010 regarding Delivery Prohibition, the Board concludes that Judy M. McGee and Martin E. McGee have violated Articles 9 and 10 of Va. Code, Sections 62.1-44.34:8 – 62.1-44.34:13, inclusive, and Virginia Administrative Code Regulations 9 VAC 25-580-210, 9 VAC 25-580-240, 9 VAC 25-580-250 and 9 VAC 25-580-260, as described above. Two of three USTs failed tank tightness testing and TPH semi-volatiles were identified as being present in the soil during the initial subsurface investigation. However, the suspected release was not confirmed by site characterization. Petroleum compounds were not identified in the soil, groundwater or surface water. The potential receptor of the suspected release was the Clinch River (Section 2b, Class IV, PWS), located approximately 60 feet south of the tanks at the facility. The Clinch River is confirmed as containing threatened and endangered species in the area in question. The requirement that USTs not being used be placed into "Temporary Closure" or be permanently closed is a basic element of the UST regulatory program. The discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth is prohibited. Performance of a site check, with notification to DEQ of positive or negative release confirmation and site characterization are also basic elements of the UST regulatory program. Negotiation was conducted at the direction of the Hearing Officer at the beginning of a third IFF for the facility. The Consent Order requires, and Mr. and Mrs. McGee have agreed to: 1) pay a negotiated civil charge of $3,750.00; and, 2) reimburse the Virginia Petroleum Storage Tank Fund the $5,000.00 non-"fund eligible" "State Lead" expense. Judy McGee has sold the tanks at the Facility. Mr. and Mrs. McGee do not own any other tanks and are no longer in the petroleum business. Mr. and Mrs. McGee represent to DEQ, and the Bill of Sale states that Judy McGee has paid the new owner of the tanks $5,000.00 for proper removal and closure of the tanks at the Facility. Civil charge: $3,750 and $5,000 to reimburse Commonwealth.